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—SAUGOR CODE OF CIVIL JUDICATURE.

ART. XI.

SAUGOR CODE OF CIVIL JUDICATURE.

SKETCH *of the* RISE *and* PROGRESS *of the* ADMINISTRATION OF CIVIL JUSTICE *in the* SAUGOR *and* NERBUDDA TERRITORIES, *with an account of the present constitution of the Civil Courts, the amount and nature of the litigation, the costs, in time and in money, at which justice can be obtained, and proposals for a revised and more simple mode of procedure.*

Date of acquisition; area and population of the Territories.

THE Saugor and Nerbudda Territories, containing a superficial area of probably not less than 40,000 square miles, and a population of about two millions of people, were reduced to British authority early in the year 1818 by forces detached from the Grand Army of the Marquis of Hastings, who had taken the field in October 1817 against the Pindarees, the Mahrattas, and the Pathans of Central India, and of the Deccan.

Date and mode of the acquisition of Saugor.

2.—Saugor and its dependencies had been ceded to us by the treaty with the Peshwa, Bajee Rao, dated 13th June 1817, but we did not get possession until the 11th March 1818, on which date Benaick Rao, the Manager, as he was called, yielded to the negotiations of Mr. Wauchope, Superintendent of Political Affairs for Bundelkund, whose arguments were strengthened by the presence of the left Division of the Grand Army under General Marshall.

Commencement of our Rule in Saugor.

3.—On 14th March the introduction of our Rule was announced by proclamation, which stated that the authorities then in office should be continued for the present. On 17th April 1818, Mr. Wauchope reported that he had placed Mr., now Sir, Herbert Maddock in charge of the country of Saugor, subject to his own general superintendence.

Events which led to the acquisition of the Nerbudda Districts.

4.—Jubbulpore and the other districts on the Nerbudda had belonged to the Raja of Berar, with whom, as with the other Mahratta powers, our relations were at this time in a very critical state. The consummate tact and ability of Mr. Jenkins, the Resident, failed to induce the Rajah to continue on terms of amity. A treacherous attack was made upon the very small body of troops present at Nagpore, which, with the Resident's escort, took post on the Hill of Seetabuldee; and this handful of men successfully repelled the attacks of an overwhelming force of 20,000 men, supported by 35 guns. Fitzgerald's charge at the head of three Troops of the 6th Regiment Bengal Cavalry, and a Native Officer and 25 Troopers of the Madras Body Guard, was a feat scarcely late brilliant exploit of the gallant 600 at Balaclava.

5.—*The events of the 26th and 27th November 1817 at Nagpore were the immediate cause of the loss of the Nerbudda Districts to the Raja of Berar.*

Occupation of Jubbulpore how effected, and our Rule introduced.

6.—Brigadier General Hardyman, who was in command of a force at Mirzapore, but had advanced to Rewah, now marched rapidly on Jubbulpore with a Regiment of Cavalry, H. M.'s 17th Foot, and four guns. He was opposed by a body of about 3,000 men, with four guns, who offered considerable resistance, but were soon repulsed, and Jubbulpore was reduced to British authority. General Hardyman established a Provisional Government, consisting of three Military Officers, to administer affairs until the arrival of Mr. Malony, who was appointed* to take charge of the Nerbudda Districts, under the general control of the Resident of Nagpore.

* Orders of Government, dated 13th March 1818.

7.—The whole country, including Saugor, was full of forts and strongholds, garrisoned by men accustomed to plunder and to warfare. In fact, the chief settlements of the Pindarees were in these Territories. The reduction of the country, therefore, to British authority was not accomplished for some time.

Reduction of the country to our authority took time.

Scantiness of the records of Civil Administration.

8.—The records of Civil Administration during this early period of our Rule are not very full.

9.—The maintenance of Political relations with the numerous petty chieftains in the Territories, and also with the surrounding independent States, must of itself have afforded much occupation to the only two local Officers who are mentioned, viz. Mr. Maddock at Saugor, and Mr. Malony at Jubbulpore.

Duties of Officers in executive charge of the country, and the number of Officers employed.

10.—At first they only supervised the proceedings of the native local authorities in collecting the Land Revenue, but they were very soon engrossed with securing this resource of the State by the formation of a summary settlement. It was also found necessary, almost immediately, to supersede the Native Mamlutdars, who proved unfit, corrupt, and totally untrustworthy, and to appoint Tehseeldars from the old provinces. Moreover, the country had been so often overrun by the Pindarees, that much land was lying waste, and many villages were deserted. Such a state of affairs must have greatly enhanced the cares and labors of the gentlemen in executive charge of the country.

Collection of land revenue, and formation of summary settlement thereof.

Removal of Mahratta Mamlutdars.

11.—Their attention was doubtless directed to some provision for the administration of Criminal and Civil Justice, but it will be seen that, for years, no machinery was organized for dispensing justice in civil matters, and that this department was almost totally neglected, owing, chiefly, to the policy of the times.

Neglect of department of Civil Justice, and the cause thereof.

Paucity of European Executive Officers, and their multifarious duties.

12.—It was quite impossible that Messrs. Maddock and Malony, even with the aid of two or three assistants, one of whom Mr. Maddock took upon himself to appoint, could perform the multifarious duties of maintaining Political relations; of collecting and securing the Land Revenue, Customs, and other duties; of superintending the Police, and of administering Criminal and Civil Justice in a new country, nearly the size of England, and with a population as large as that of Scotland not many years ago. To add to Mr. Maddock's difficulties and labors at Saugor, he had likewise the superintendence of a mint.

Contrast between the policy of those days and of that recently and so successfully pursued in the Punjaub.

13.—It is curious and instructive to contrast the half measures which were adopted to introduce order and good government into these territories, and the consequent slow progress of the administration, with the effects of the vigorous and enlightened policy which has transformed Runjeet Sing's wide and troublesome dominions into a peaceful, well-ordered, and rapidly progressing British Province, in the short space of six years.

Rapidity, liberality, and completeness with which the machinery of Civil administration was organized in the Punjaub.

14.—Section 111 of the first Punjaub Report recounts the grand and comprehensive steps which were taken immediately after annexation to introduce our Rule. Commissionerships were forthwith formed and allotted into districts. Seventy-four covenanted and commissioned Officers, since increased in number, were assembled at Lahore, and were immediately dispatched with instructions to their respective jurisdictions. The administration of the country was set in train; Civil and Criminal Courts were established, &c. &c.

Tardiness with which districts were formed and local Superintendents appointed in these territories.

15.—How different was the policy towards these territories when we superseded the Mahratta Rule. Only two Executive Officers were in the first place appointed. It was not until December 1819, or 18 months after we had taken possession of the country, that the Hon'ble E. Gardiner, who had been recently appointed Resident in Bundelkund, proposed the formation of seven districts; and it was not until a year later that the districts were fairly formed, separated from the Bundelkund Political Agency and the Nagpore Residency, and placed under Mr. Malony, who was invested with the title of Agent to the Governor General.

Mr. Malony appointed Agent.

His duties.

16.—To him was entrusted the maintenance of our Political relations, the exercise of the functions of a Commissioner of Revenue and Police, of a Sessions Judge, and of a Sudder Dewanny Adawlut.

Business of District Officers, and tardiness with which they were appointed.

17.—Four or five Officers, under the title of Principal and Junior Assistants, had from time to time been appointed, and placed in charge of Districts; but still on 26th January 1821, that is to say, nearly three years after we had acquired the

territories, Mr. Malony was, in addition to his important duties of Political and Fiscal and Police supervision, of Criminal Sessions and of Judicial appeal, actually in executive charge of the district of Jubbulpore, and unable to proceed on circuit for want of an Assistant.

Duties of District Officers.

18.—The duties of the Assistants in charge of districts extended to every Department, Revenue, Judicial, both Civil and Criminal, and Police. They had, too, Political duties, for the Political character of these appointments was jealously asserted until lately.

Limited scale of the establishments and paucity of European Officers, with the consequences thereof.

19.—All the establishments appear from the first to have been on a very limited and parsimonious scale, and were of course unequal to the work. It was the paucity of European Executive Officers, however, that was most felt and complained of, and which appears for many years to have retarded the due progress of the administration of the country.

Employment of so few European Officers attributed to financial considerations, and exclusion of Native agency to the policy of the times.

20.—The employment of so few European Officers was probably owing to financial considerations, and there was, unfortunately, a great obstacle to any remedy by the employment of the cheaper agency of Natives, at any rate in the administration of Civil Justice. The great principle of Lord Cornwallis' system, viz. the administration of Civil Justice by the almost exclusive agency of European functionaries, was in full force in those days.

Civil Justice sacrificed to the calls of other Departments.

21.—There being, then, but one District Officer, without the requisite assistance, European or Native, it happened that the Department of Civil Justice, which was the least obtrusive, though by no means the least important, was sacrificed to the more urgent calls of Political, Revenue, Police, and Criminal affairs.

Accumulation of Judicial business at Saugor began to attract attention.

22.—The first serious notice which I have met on this subject is in a letter from the Hon'ble E. Gardiner, dated 8th November 1819. It is to the following effect:—"The unexpected accumulation of business, both Civil and Criminal, at Saugor and its dependencies, which I am sorry to learn is already very heavy, it would appear, calls for the unremitted attention of a Local Judicial Officer at that place; and in the absence of any other Assistant in that Department, I have considered it necessary to continue Mr. Macan in the charge of those functions which were delegated to him before my arrival here by Mr. Maddock, a copy of whose letter to me on the subject I beg to enclose."

Insufficiency of the remedy.

23.—But it was quite impossible for a single Officer, even had there been a separate Judicial Officer in every district, which there was not, to meet all the demands for Civil and Criminal Justice which have for years past taken up the whole time of four and five Officers in each district.

24.—To add to the inconvenience which was experienced from the want of proper civil tribunals, and of a due dispatch of business, the introduction of our Rule was followed by an irruption of lawyers from the old provinces, who disturbed the quiet of every respectable family of property, and fomented litigation. As the inroads and invasions of the Pindarees had been called "gurdees," so the Natives termed this invasion of lawyers the "Wukeel ka gurdee." Their presence was found so prejudicial to the best interests of the people, and repugnant to their feelings, that in 1826 Mr. Maddock summarily dismissed all the Wukeels.

The Wukeel ka gurdee, and the consequent increase of litigation.

Expulsion of the Wukeels.

25.—But although the other departments of business may have been, and were felt to be, more pressing, and requiring the personal attention of the District Officers, still it was necessary to do something for the adjudication of those innumerable questions and disputes of a civil nature between man and man, which so seriously affect the moral and social condition and welfare of civilized communities. The great majority of these disputes, viz. those of a pecuniary nature, used to be managed in a very summary and effectual manner before the British accession. The monied man had always great power under every Native Rule. The Rulers themselves were generally in debt to the bankers and other capitalists, and rarely interfered with the latter in enforcing their claims against the people. It is notorious that by Dhurna; by means of private duress; or, if the debtor were a farmer or a cultivator, by seizing his property or crops, and becoming responsible to the State for the revenue, bankers and money-lenders used to recover their debts. Such license ceased with the introduction of our Rule. We would not allow any man to take the law into his own hands, and yet we provided no suitable remedy. It was necessary, however, to do something. The plan universally adopted in these territories was to refer almost every Civil complaint to private arbitration. The punchayut system, as it was practised in these territories, its use and abuse, has been fully described in the letter from the Bengal Government to the Hon'ble Court, dated 22nd February 1827, and published in the Judicial Appendix of the Parliamentary Papers of 1832-33.

Civil disputes almost entirely referred to private arbitration.

26.—For some years previously the administration of Justice, Civil and Criminal, in India, had received a good deal of attention both from the local Government and from the Court of Directors. The long and instructive correspondence which took place between those authorities has also been published among the same Parliamentary Papers.

Attention given by the Government at this time to administration of Justice.

27.—The attention of the Agent to the Governor General in these Territories was called to the subject, and reports were required. The Agent, in like manner, called for reports from the District Officers. The result was the partial introduction of Native agency.

Reports called for from these Territories, and the result.

28.—One Sudder Ameen had been previously employed
Employment of Sudder Ameens.
Jubbulpore, and it was proposed to inc
Accordingly, under the orders of Gov
Department, No. 915, dated 25th May 1826, four Sudder Am
Rs. 150 per mensem, including establishments, were appc
Dumoh, Jubbulpore, and Nursingpore for the cognizance of a
District Officers for special reasons did not reserve for thei
instructions of Government provided that "all civil suits shoul
stance, be filed in the Court of the Assistant, and such port
may judge expedient referred for trial to the Sudder Ameen."

29.—It soon happened that the Assistants' Courts becan
Assistants heard appeals only, and in certain cases executed decrees.
mary appeal only, but they were also re
decrees passed by the Sudder Ameer
from consideration to parties, or on ot
interposition was considered desirable.

30.—Besides the agency of the Sudder Ameens, extensive
Punchayuts still used, and also Tehseeldars employed, in petty cases.
were still made to Punchayuts, and
were entrusted to the Tehseeldars for
cations for justice, however, continued
Institution fees began to be levied.
such was the pressure that in 1828
were levied with a view to repress sp

31.—But the object was not attained. The Sudder An
Failure of the foregoing plan, and its causes.
first place too few in number; they wer
ill-paid, and not well supervised, and cc
withstanding the assistance afforded by the extensive use of
the agency of the Tehseeldars, Civil justice was not properly

32.—The next change was the establishment, in 183

* District.	Tehseeldars and Naib ditto.	Zilladars.
Seonee, ..	4	0
Baitool, ..	5	0
Jubbulpore,	4	3
Nursingpore,	5	0
Hoshungabad	4	0
Dumoh, ..	6	1
Saugor, ..	3	2
	31	6

Smith, of 37 pergunnah
margin, * with powers to
Rs. 400 in value. The
Tehseeldar, or Zilladar w
and was supposed to be ai
The Presidents were rem
stitution fees, at the rate of
amount claimed. From
when not unanimous, an appeal laid to the Principal Assistant

33.—The four Sudder Ameens were retained with origin
Sudder Ameens retained.
their respective districts up to Rs. 1,0C
their decisions were tried by the Prin
and special appeals from the latter were heard by the Commis

34.—I believe that the Pergunnah Courts at first wo rked
Pergunnah Courts worked well at first, but afterwards fell into abuses.
but they gradually fell into many
other hand, the Sudder Ameens' Cou
risen somewhat in public estimation,

Commissioner, the Hon'ble Mr. Shore, appointed two more Sudder Ameens.

Two more Sudder Ameens appointed.

Suitors were allowed the option of suing either in the Pergunnah Courts or in the Sudder Ameens' Courts. The District Officers were also now entirely relieved of the duty of executing decrees, which was performed by the Sudder Ameens.

35.—The District European Officers were, however, still far too few in number, and were too much engaged with their Revenue, Police, and Criminal duties to give that attention to the administration of Civil Justice which was absolutely necessary. In the words of Mr. R. M. Bird, Senior Member of the Sudder Board of Revenue, in his note on the administration of these territories:—"They had other duties to attend to, which, if not more important, were more urgent, and the Civil Judicial Department was that which, with least of obvious and present inconvenience, though not least of moral and social evil, could be postponed or neglected." Neither the Pergunnah Courts nor the Sudder Ameens were watchfully superintended. They became more and more lax and irregular, and in some instances corrupt; and the entire system completely broke down in less than ten years from the first institution of Pergunnah Courts.

District Officers still unable to attend to Civil Justice.

36.—About this time, that is to say in the year 1842, nearly all Central India, comprising the Gwalior Territories, Bundelkhund, and the Saugor and Nerbudda Territories, was in a very disturbed state.

Disturbed state of the country in 1842.

37.—Lord Ellenborough resolved to recast the whole system of administration in the Saugor and Nerbudda Territories, and to separate the superintendence of the departments of Civil and Criminal Judicature from that of Revenue and Police. The latter, together with the Political relations, were entrusted to the Commissioner, while a Civil and Sessions Judge was appointed to re-organize the system for the administration of Civil and Criminal Justice.

The administration remodelled.

Appointment of a Civil and Sessions Judge.

38.—Mr. C. M. Caldecott was the gentleman selected to fill the office of Judge, and he entered upon his arduous and important duties on 1st March 1843.

Mr. Caldecott appointed Judge.

39.—For the adjudication of Civil disputes, except only those connected with the land, which, even under the old regime, had always been kept on a separate file, and had been disposed of in the Revenue Department, Mr. Caldecott established fifteen Native Courts of primary venue, which were soon increased to 16.

Civil Courts established.

Their denominations, and powers.

They were of the following denominations and powers:—

FOUR SUDDER AMEENS, with unlimited jurisdiction as to the value of suits.

FOUR 1ST CLASS MOONSIFFS, with jurisdiction up to Rs. 1,000 in value, which was soon extended to Rs. 5,000.

EIGHT 2ND CLASS MOONSIFFS, with cognizance of suits up to Rs. 400 in value.

Two divisions formed under two Principal Sudder Ameens.

40.—The territories were apportioned into two divisions, each of which was placed under the charge of a Principal Sudder Ameen, with a suitable number of subordinate Judges of all three grades.

The Jubbulpore Division comprised the following Districts and Courts:—

District.	*Station.*	Courts.		
		Principal Sudder Ameens.	*Sudder Ameens.*	*Moonsiffs.*
Jubbulpore, ...	Jubbulpore, ...	1	1	1
Ditto, ...	Mundla, ...	,,	,,	1
Ditto, ...	Sohagpore, ...	,,	1	,,
Ditto, ...	Schara, ...	,,	,,	1
Seonee, ...	Seonee, ...	,,	,,	1
Dumoh, ...	Dumoh, ...	,,	,,	1
Ditto, ...	Rehly, ...	,,	,,	1
Total, ...	.. ..	1	2	6

The Nursingpore Division comprised

District.	*Station.*	Courts.		
		Principal Sudder Ameens.	*Sudder Ameens.*	*Moonsiffs.*
Nursingpore, ...	Nursingpore, ...	1	,,	1
Ditto, ...	Shahpore, ...	,,	,,	1
Saugor, ...	Saugor, ...	,,	1	1
Ditto, ...	Khoorye, ...	,,	,,	1
Hoshungabad, ...	Hoshungabad, ...	,,	1	,,
Ditto, ...	Seonee, ...	,,	,,	1
Baitool, ...	Baitool, ...	,,	,,	1
Total, ...	.. ..	1	2	6

Powers and duties of the Principal Sudder Ameens.

41.—The two Principal Sudder Ameens were invested with the powers of a Civil Judge in the old provinces, except that they were allowed no original jurisdiction. They were to hear all appeals from the primary Courts in their respective divisions; were to superintend those Courts in every way; to report monthly what was going on, and every six months upon the characters of all the Native Judicial Officers subject to them.

Powers and duties of the Judge.

42.—The Judge himself was constituted a Court of special and ultimate appeal, or Sudder Dewany Adawlut. He had to enunciate and to inculcate principles, and to introduce a

system of procedure of stamps and of records. He was to receive accounts and reports, monthly and six-monthly, from all the subordinate Courts, including the Principal Sudder Ameen's, through whom the reports from the others were to be forwarded. He had, in short, to establish and to regulate that which the people had never before enjoyed,—a complete system for the pure and efficient administration of Civil Justice.

Arrears which he found.

43.—It devolved upon him, moreover, to dispose of a great accumulation of special appeals, and to provide for the decision of a still greater number of common appeals; for I find it stated by the Agent to the Governor General in his letter No. 57, dated 8th March 1843, that no Civil business had been attended to during the disturbances, and that it had been much neglected long before from frequent changes in office and other causes.

Period of his incumbency, and what he effected.

44.—Mr. Caldecott addressed himself to his task with great earnestness, zeal, and energy, and continued his labors for upwards of two years and a half, when he finally left India, before completing the usual period of service. "He took infinite pains in introducing order and form in the returns, and legal practice in the business of the Courts; and the labor of correcting the old hands, and instructing the new, was very successful, but much remained to be done."

Succeeded by Mr. S. S. Brown.

45.—Such was the opinion of Mr. Sneade Brown, who also, for upwards of two years, devoted himself to the task of giving a healthy practical tone to the Courts.

To him succeeded Mr. Mosley Smith, who held the office for several years.

46.—To him succeeded Mr. Mosley Smith, who for five years and nine months superintended and controlled the Civil Courts of these Territories with a zeal, earnestness, and patient attention, which elicited the respect and admiration of the entire European community, and the gratitude and warm affection of the people.

Mr. E. Thomas followed, but did not remain long.

47.—He was succeeded by Mr. E. Thomas, whose state of health did not permit him to hold the appointment long.

Their mention introduced to shew that the department had been carefully superintended for years past.

48.—I have not of course presumed to speak of the official ability of my predecessors. The elevation of two of them to the chief bench of the North Western Provinces is the best proof of the estimation in which they were held by the Government, and of the appreciation of their labors; but in sketching the history of the Civil Courts of these Territories it was necessary to shew that since the remodelling of the administration, the department of Civil judicature has received that close, regular, and earnest attention and supervision which its importance requires and deserves, but which was previously entirely wanting.

Principles and rules adopted by Mr. Caldecott and his successors.

49.—I shall now endeavour to explain the principles and rules which were adopted by Mr. Caldecott and his successors for the guidance of themselves and of their subordinate Courts.

50.—In the last annual report which he wrote, Mr. Caldecott stated, "I have endeavoured, to the best of my humble abilities, to approximate as much as possible to regular and fixed rules of practice, because I believe that such affords the people the greatest feeling of security and the best protection from the indefinite chicane which so grievously pervades our Courts, but this approximation has been gradual, and is by no means complete, for great caution is needed where the agency is entirely Native. Due allowance must be made for the confirmed habits of the people, and much must necessarily depend upon the co-operation of the other public departments, as well as upon the settlement of landed tenure upon some clear and satisfactory basis."

Quotation from Mr. Caldecott's last report.

51.—The course pursued by his successors is explained in the following paragraph of Mr. Mosley Smith's annual report for 1848:—

Extract from Mr. Smith's report for 1848.

"On leaving these territories Mr. Caldecott, in observing that the system of the Regulation provinces regarding institution, conduct, and decision of suits, execution of decrees, &c., was here adhered to as much as possible, stated that it would appear to be our object to bring by degrees such assimilation nearer and nearer. The Native judicial functionaries are generally in possession of the Oordoo translation of Mr. Marshman's excellent compilation called 'Guide to the Civil Law,' which, with occasional misapplications of law or practice, they appear to make judicious use of, and my predecessor was indefatigable in urging observance of particular essential provisions of the Law, and in prescribing rules of practice for the correct conduct of cases, leaving me the duty of seeing that the lower Courts carry out those instructions, and do not allow them to become a dead letter."

52.—From this it is clear that the Bengal Regulations, Acts, and Orders form something more than the basis of our system, and that they are pretty closely followed in the latter. The modes of procedure have been by degrees so far assimilated that, with two exceptions, Civil suits are tried in these territories according to the rules of practice of the Courts in the North Western Provinces. The exceptions are, 1st, that the institution stamp is half the value of that required by Schedule B. Regulation X. 1829; 2ndly, that in suits up to Rs. 400 in value the 2nd class Moonsiffs proceed upon the plaint and answer only, instead of on the four pleadings.

System of the Regulation provinces pretty closely followed in spirit and in letter.

53.—Mr. Caldecott did in the first instance frame a set of rules for the 2nd class Moonsiffs, but they have from time to time been so modified, that they are now almost obsolete, and the 2nd class Moonsiffs proceed very nearly in the same manner as the other Courts of first instance. I annex a copy of Mr. Caldecott's rules, which were approved of by the Government of India in Orders No. 249, dated 28th November 1843.

Mr. Caldecott's rules for 2nd Class Moonsiffs.

54.—It will be seen that at first the 2nd class Moonsiffs were required to try certain descriptions of suits with assessors, as used to be done in the abolished Pergunnah Courts, but

Restriction at first laid upon them soon removed.

the restriction was soon removed, and the 2nd class Moonsiffs were invested with independent judicial authority in every description of case, with the option to try with assessors when there should appear to be any special reason for doing so, or if the litigants preferred to have their cases so decided.

Statute of limitation assimilated to that prescribed in Regulations.

55.—The statute of limitation has also been altered, under authority, and made the same as in the other Courts, and in conformance with the Regulations, viz. 12 years in every description of case.

2nd Class Moonsiffs now much on same footing as the other grades.

56.—Indeed the only respect in which the 2nd class Moonsiffs now differ from the other grades is, 1st, in limit of jurisdiction, and 2ndly in the number of pleadings. The 2nd class Moonsiffs try on the plaint and answer only, while the 1st class Moonsiffs and Sudder Ameens do not proceed even in a petty case for two rupees except on the four pleadings.

Instructions to all the Courts have generally been in the letter of the Acts and Orders of the Provinces.

57.—No set Rules have ever been prepared for the guidance of the 1st class Moonsiffs and Sudder Ameens, but the fullest instructions have from time to time been issued to them, and also to the 2nd class Moonsiffs, generally in the very letter of the Acts and Orders of the old Provinces.

Introduction of Law stamps.

58.—Law stamps had been introduced some years previously in lieu of institution fees in cases exceeding Rs. 400 in value, but in all cases below that sum institution fees were still taken. Mr. Caldecott proposed a modified form of Schedule B. Regulation X. 1829, which was sanctioned under the Orders of Government of India, Judicial Department, No. 52, dated 25th August 1843, and institution fees were altogether abolished.

Introduction of stamps in pecuniary transactions.

59.—It was not deemed expedient at that time to require money securities, engagements, and discharges to be engrossed upon stamp paper, but four years afterwards Mr. S. S. Brown proposed, and the Government of India sanctioned, the introduction of a modified form of Schedule A. Regulation X. 1829, from 1st September 1847. I had occasion lately to report* fully upon this subject, and need therefore say no more than that it took about seven years to enforce the measure, and that its complete introduction is owing to the stringent, but necessary, orders of Mr. E. Thomas.

*No. 16, dated 20th March 1855.

The foregoing is an outline only of the changes which have taken place.

60.—I have attempted in the preceding paragraphs to give an outline of the changes which have been made in the administration of Civil Justice in these Territories since the introduction of one Rule, 37 years ago; and to shew that, whatever may have been the shortcomings of earlier periods, the department was thoroughly re-organized twelve years ago, when the system in force in the old Regulation Provinces was introduced in a somewhat modified form.

61.—Within the last two or three years the system of judicature in India has been subjected to a very searching enquiry by Committees of both Houses of Parliament. Every competent witness has condemned the existing mode of procedure as cumbersome and obstructive of justice, and has expressed himself in favor of a more simple mode of trial, especially in small debt cases, which appear to form a large proportion of the litigation from Peshawur to Cape Comorin. But more than this, the working of the new County Courts in England, of the Small Cause Courts at the three Presidencies, and of the Civil tribunals throughout the Punjab, has given the death-blow to the supposed necessity for numerous and diffuse pleadings, or for delay in the administration of Civil justice, and has also effected some diminution of the expense of litigation.

The old system of procedure has been condemned, and expense or delay in administration of justice been proved unnecessary.

62.—The Honorable the Lieutenant Governor of the North Western Provinces, and of these Territories, directed my attention to the subject immediately after I assumed charge of this Judgeship. My want of local knowledge and of experience in the department of Civil justice has hitherto prevented me from expressing any opinion; but now, after some practical experience, and a careful consideration of the past history and present state of the Civil judicature of these territories, I feel myself called upon to lay the whole subject before Government, with certain recommendations to be hereafter detailed.

The Lieutenant Governor directed my attention to the subject, which has not sooner been brought forward, for reasons stated.

63.—That one of my predecessors contemplated the possibility of further reforms is clear from the following extract from paragraph 42 of Mr. M. Smith's annual report for 1852:—

Mr. Smith contemplated reforms.

"Errors and defects are doubtless to be found in these Courts, but if reconstituted or reformed, I would rather advocate the attainment of that object on the model of the Punjaub Civil system, primitive in simplicity, and not by a nearer approach to, or imitation of, the tribunals of similar jurisdiction in the provinces."

64.—I propose, by an examination of the nature and value of the litigation, and the cost at which justice can be obtained, both in money and in time, to shew what those errors and defects are, and I shall also endeavour to make a comparison between the nature of the litigation and of the costs and duration of suits in these territories and in the Punjab, with a view to consider whether any, and what, change is desirable.

Proposes an examination of the nature and state of litigation here and in the Punjab.

65.—During the ten years 1843 to 1854, both inclusive, 1,18,978 original suits have been decided in these Territories, which gives an average of 11,897 causes every year. In 1854 the number decided was 11,867; of these 338 were disposed of by the late Sudder Ameen of Shahpoora (Mundla), which Court has been abolished, and whence no detailed returns

The total and average number of original suits decided during the last ten years.

have been received. The remaining 11 Courts (the Mundla Moonsiffee having also been abolished) decided 11,529 suits, involving a sum of close upon 8 lakhs of rupees, and costing the litigants Rs. 56,569, or little more than 7 per cent. on the total stake.

The total value of the suits decided is 8 lakhs, at 7 per cent.

66.—I am unable to give an exact classification of the suits that were decided, but the subjoined is a description of the suits that were instituted during the year. The total number, excluding the Shahpoora (Mundla) Court, was 12,220, and they were of the following descriptions:—

Description of suits instituted.

[illegible]	4,572
[illegible]	4,576
[illegible]	113
[illegible]	181
[illegible]	171
[illegible]	175
[illegible]	110
[illegible]	159
[illegible]	45
[illegible]	23
[illegible]	48
[illegible]	61
[illegible]	61
[illegible]	455
[illegible]	156
Grand Total,	12,220

Large proportion of decisions, and the simple nature of the suits.

67.—Leaving the last item out of account, it will be found that 10,517 out of 12,064 suits, being upwards of 87 per cent., were for bond and parole debts, and on hoondee hattas. If we take bond debts alone, they furnished 73 out of every 100 suits which were instituted. The litigation therefore is or ought to be of the simplest nature, especially if it be considered for what surprizingly small sums bonds are written, and for what surprizingly small claims suits are preferred, as will presently appear.

Remarks upon Statement A; general results perhaps satisfactory.

68.—The annexed Statement A. shews the number of suits decided in each of the 11 Courts of primary venue; the total value of the suits; the average value of each suit; the total cost; the average cost per cent., and per suit, and the average duration. It will be seen that the average value of each suit was Rs. 69, that the average cost in each case was only Rs. 4-11-0, or 7 per cent., and that the average duration was sixty-eight days. These results are perhaps not unsatisfactory, according to hitherto received ideas of the necessary expense and delay of litigation.

Our Courts are behind hand in the Punjab in costs and duration of suits.

69.—I have no data to enable me to institute any comparison between the Courts of these Territories, and those of the North Western Provinces and Bengal, but I find that the Saugor and Nerbudda Territories in 1854 were a good deal behind the Punjab in 1853, in respect both of costs and duration of suits. Moreover, judging from the progress hitherto made in the Punjab, and the determination expressed by the Chief Commissioner in paragraph 246 of the report for 1852-53 to reduce the average time to twenty days in the superior Courts, and to ten days in the Small Cause Courts, I apprehend that in duration of suits we may by this time be still further behind the new country.

Comparison with Lahore Division.

70.—His Honor having permitted me to see the report on Civil Administration of the Lahore Division for 1853, I am enabled to make a somewhat closer comparison than the general report for the Punjab would permit.

Comparative statement.

71.—The Saugor and Nerbudda Territories have no large commercial cities like Lahore and Umritsur. I see, moreover, that the population of the Lahore Division is estimated at nearly three and a half millions, while these Territories, exclusive of Mundla, contain about two millions only. Bearing this in mind, I find the following to be the comparative results of Civil Administration in these two widely separated parts of the country:—

	Cases disposed of.	Value of suits.	Average value of suits.	Total Costs.	Average cost in each case.	Percentage of costs to value.	Average duration in days.
Lahore Division, 1853, ...	16165	1251989	76	57936	3-8-0	4-6-0	37
Saugor Division, 1854, ...	11549	792372	69	56269	4-14-0	7-1-0	68

Litigation of the same nature.

72.—It is quite clear from the numbers and average value of the suits that the Civil litigation is much the same in the Punjab as in Central India. Indeed it is impossible to read the first and second Punjab Reports without being struck with the extraordinary similarity in manners, customs, habits, and character between the people of that country, and not only of Hindoostan Proper, but perhaps of Bengal and of the Deccan.

The people of the two countries not very dissimilar.

73.—Leaving Peshawur and the warlike and turbulent frontier out of the question, the Hindoos and Mahomedans of the Punjab, generally, are not very different from the Hindoos and Mahomedans of Hindoostan, of Central India, or of the Deccan. Physically the

77.—I must now shew how unequally costs press in suits of different amounts under the existing system. It has been stated that the total costs are to the total value of the suits decided at the rate of only Rs. 7-1-9 per cent., but this per-centage does not give the least idea of the actual costs in cases of small value.

Average of total costs to total value of suits does not give a correct idea of actual costs in petty cases.

78.—The accompanying Statement B. was intended to illustrate this point, but I found out, when too late to obtain fresh returns, that it does not, unfortunately, go into sufficient detail. The defect has, however, been remedied to a great extent by another statement of petty suits decided in the Jubbulpore Division during the last six months of 1854.

Statement B. intended to illustrate this point, but does not do so completely.

79.—But to begin with Statement B., His Honor will observe that there were 6,031 suits, being more than half the whole number decided, in which the claim was for less than Rs. 25. The average value at stake in these suits was Rs. 12-3-11, and the average cost, Rs. 2-3-0, being more than one-sixth of the claim, or at the rate of 18·3 per cent.

Large number of cases under Rs. 25 in value shewn in Statement B. Their average value and costs.

80.—By glancing the eye down column 6 it will be seen how rapidly the per-centage of costs decreases from 18·3 in the smallest to 2·13 in the largest suits. But in point of fact the per-centage of 18·3 even does not by any means exhibit the actual proportion of costs to claims in the sub-divisions of suits below Rs. 25 in value.

Average costs appear to range from 18·3 to 2·13 per cent., but the former number does not exhibit the real proportion of costs to claim in petty cases.

81.—I have been amazed at discovering the vast amount of extremely petty litigation, and the overwhelming costs which are incurred by the losing parties. I ought not perhaps to have been surprized at the extreme minuteness of a great many of the claims, for a moment's reflection is sufficient to convince one that it must be so. Our Putwarees' papers all over the country contain the names of hundreds of thousands of cultivators, aye, and of proprietors, who pay less than Rs. 8 per annum either for juma or for rent. We are all familiar with the cheapness of labor and the lowness of wages. A cooly and many an artizan is highly paid at Rs. 4 per mensem; many a bunniah and petty trader makes no more. Innumerable servants, especially the servants of Natives, are paid at the same rate. Lastly our annual criminal statistics, not only here, but throughout the North Western Provinces, shew that in thousands of cases both of burglary and of simple theft the property stolen is less than Rs. 4 in value. I give in the margin a striking exemplification of this statement, from the Saugor Criminal Report for last year. Such facts surely prove the wonderful simplicity of habits, the fewness of wants, the comparative poverty,

Amazing amount of petty litigation, and overwhelming costs thereof.

	Burglaries.	*Simple thefts.*
Value did not exceed 1 Rs.	72	620
Ditto ditto 2 „	48	202
Ditto ditto 3 „	37	105
Ditto ditto 4 „	31	68
	188	995
Total cases in the year	443	1,358

and the consequent minuteness of the transactions of a very large portion of the population.

Mentions the classes of the people who furnish defendants in the petty suits, and the nature of their transactions.

82.—It is the very poor people, who live, as it were, from hand to mouth, against whom the great majority of suits up to Rs. 16 or 24 are brought in our Civil Courts. Almost the entire population, certainly that part of it which forms the million, appears to be in debt. Poor agriculturists, petty traders, and shop-keepers, artizans, laborers, servants, &c. &c., generally furnish defendants in the smallest suits from Rs. 16 downwards. Less than half that sum pays the juma or rent of a holding, buys seed-grain, a bullock and a plough, or may be a pair of bullocks, furnishes stock-in-trade, purchases or builds a house, is sufficient to marry a child, or prosecute a journey, or for innumerable other social purposes. It happens consequently that thousands of loans for very small sums are annually given and taken, almost always on promissory notes (Teeps) payable within a year, but which very rarely are taken up punctually or at all until a suit is laid in Court, and these are the transactions which are the causes of action in a majority of the suits, and in which I find the costs of litigation to be so excessive and injurious.

Sub-divisions of cases below Rs. 25.

83.—I calculate that the 6,031 cases under Rs. 25 may be sub-divided as follows:—

The claim was	for less than	Rs. 4	in	500 cases.
Ditto	ditto	„ 8	in	1,500 „
Ditto	ditto	„ 16	in	2,500 „
Ditto	ditto	„ 24	in	1,500 „
				6,000 cases.

Calculation founded on actual number decided and instituted in six months.

84.—The above calculation is not founded on conjecture, for, fortunately, my records enable me to show exactly how many cases of each of the first three descriptions were decided during the last six months of 1854 in the five Courts which form the Jubbulpore division, and how many were instituted in the remaining nine Courts of the Nursingpore division. But further, I am able to give the actual costs which were incurred in each description of case in the Jubbulpore division, and I have accordingly had Statement C. prepared. I may add that the costs in the Nursingpore division are generally heavier than they are in this division, and that therefore the table does not overstate the pressure of costs in petty suits.

Draws attention to Statement C.

85.—His Honor will remark that in five Courts only, and in six months only, there were 114 suits decided below Rs. 4 in value; that the average claim was only Rs. 2-12-0, and that the average costs were Rs. 1-15-5, being at the rate of 71 per cent. on the claim. The lowest per-centage was 55, and the highest was 126, or one-fourth more than the original claim. In 296 suits from Rs. 4 to 8 the average costs amounted to Rs. 39 per cent., and in 512 suits from Rs. 8 to 16 in value the average per-centage of costs was 21·63.

86.—Thus it will be seen that any calculation of average costs in very large and very small suits together is most fallacious, for while the exceedingly moderate sum of 7 per cent. represents the average costs in all taken together, and 18·3 per cent. represents the average costs in all suits below Rs. 25 in value, it is clear that there are hundreds of suits in which the average costs amount to 71 per cent. on the claim, and that the actual costs often amount to 126 per cent.; and these are the rates at which the poorest of the people are saddled with costs, while those who are far better able to pay for justice can obtain it at about 2 per cent. on the amount in dispute.

Average per-centage of costs actually range from 71 per cent. in the smallest to 2·13 per cent. in the largest suits.

87.—Costs in these territories consist of:—

Costs described.

1st.—The stamp papers on which pleadings and applications must be engrossed. The institution stamps range from 8 annas for claims not exceeding Rs. 16 up to stamps of Rs. 1,000 for claims above a lakh of Rupees. The scale is exactly half of that prescribed in Regulation X. 1829, except in the very large suits, in which the difference is less. In suits not exceeding Rs. 400 in value no pleading, but the plaint, is required to be written on stamp paper; and in suits above Rs. 400, the only impost, in addition to the stamp for the plaint, is an 8-anna stamp for every other pleading or application.

Stamp paper.

2ndly.—The remuneration of the petition or pleadings writers. This is fixed at 4 annas for each petition or pleading on stamp paper, and two annas for plain paper, as fully explained in my report No. 15, dated 20th March 1855.

Remuneration of petition writers.

3rdly.—Tulubana for issue of process, varying according to distance: the lowest charge being five annas; the highest, 3 rupees.

Tulubana.

4thly.—Mookhtars' fees at three per cent. on claims up to Rs. 5,000; above that sum the per-centage is much less.

Mookhtars' Fees.

88.—As 8-anna stamps are the lowest allowed for the institution of suits, it follows that a claim for Rs. 16 or for only Rs. 4 must be preferred on a paper of the same value. In the one case the cost of the stamp is just above 3 per cent. on the claim, and in the other it is exactly 12½ per cent. The remuneration of the petition writers presses at the rate of 9·3 per cent. on the small suit, and of only 2·3 per cent. on the claim for Rs. 16. The smallest charge for tulubana, viz. 5 annas, and for one process only, amounts to 7·8 per cent. on the claim in one case, and barely to 2 per cent. in the other. If the unhappy defendant lives at any distance from the Court, the tulubana for a single process may amount to one-half or two-thirds of the claim, or may exceed the claim itself.

Unequal pressure of institution Stamp, and of the other costs in suits for Rs. 16 and for Rs. 4, shewn.

89.—The following are the lowest possible costs in a suit for Rs. 4, under the present system. The scale for tulubana ascends to 30 coss, when the charge for a single process

Lowest possible costs stated.

is Rs. 3, and a defendant may live at this distance from the Court, but the table as it stands is sufficient to elucidate the matter :—

	If defendant lives within 1 coss of the court.	*If defendant lives from 3 to 5 coss from court.*	*If defendant lives from 10 to 15 coss from court.*	*If defendant lives from 15 to 20 coss from court.*
Stamp for petition of plaint, ..	0 8 0	0 8 0	0 8 0	0 8 0
Writing ditto, ...	0 4 0	0 4 0	0 4 0	0 4 0
Amount of Tulubana for a single process only, ...	0 5 0	0 10 0	1 8 0	2 0 0
Writing the answer on plain paper.	0 2 0	0 2 0	0 2 0	0 2 0
Total, ...	1 3 0	1 8 0	2 6 0	2 14 0

If the defendant lives within 1 coss of the Court, the cost cannot be less than 29 per cent. If he lives at the distance of 5 coss, the cost must be 37 per cent.; if 15 coss, they must be 59 per cent.; and if 20 coss, then 71 per cent. I have included but one process, viz. the notice to defendant to reply to the suit. If a proclamation for his appearance or a subpœna for witnesses has to be issued, it will be necessary to multiply the charge for tulubana by the number of the processes taken out, and each process will swell the per-centage of costs enormously, even when the defendant and witnesses live near the Court; but if unfortunately they live at any distance, the tulubana alone must amount to a ruinous per-centage on the claim.

The remuneration of petition writers cannot be omitted; but it is the lightest of the costs.

90.—It is just possible that either the plaintiff or the defendant, or both, or some near relation of either, might be able to write the petition of plaint or the reply, and thus save that item, but I am confident that in 99 cases out of 100 which occur in these territories, neither plaintiff nor defendant, nor any relation, could write a correct petition either in Oordoo or in Hindee. It will be safer therefore to include the remuneration of the petition writer as a necessary expense; and after all, it is far the lightest of all the costs.

Subsistence of defendant or of witnesses has not been included in costs.

91.—I would here remark that neither in the estimate above made, nor in the statement of actual costs as exhibited in Statement C., has any allowance been made for the subsistence of the defendant or defendants during his or their detention at the Court, or for the subsistence of witnesses.

Neither are costs of execution of decrees included, and they often amount to as much as costs of original suit.

92.—Lastly, it must be borne in mind that the costs shown are those only which are incurred in establishing the claim, and do not include the expenses attendant on the execution of the decree, which, in too many cases, are fully equal to the costs of the suit itself. If at the lowest

we estimate the costs of execution of decrees at half the costs of the original suit, it is evident that, annually, hundreds of the poorest of the people, who have difficulty in paying their bare debts, are by the action of our Courts saddled with costs fully equal to, and in many instances exceeding, the original burden. I do not think, therefore, that it is hyperbole to describe the costs of litigation in very petty suits as altogether crushing.

93.—I have dwelt chiefly upon the costs in very petty suits, because these suits not only constitute the great body of the litigation, but the evil is greatest, and is most felt in them. I consider, however, that the costs are far too heavy in proportion to the claim in all suits not exceeding Rs. 64 in value, and this is owing almost entirely to the wrong principle upon which tulubana is charged, viz. according to the distance at which parties happen to live from the Courts.

Costs too heavy in all suits below Rs. 64, and owing to the wrong principle upon which tulubana is levied.

94.—Doubtless other circumstances combine in a measure to increase the costs. It must be admitted, 1st, that the apathy, ignorance, and perversity of the people, especially of the lower orders and petty suitors, is the occasion of the issue of many more processes than would be required if prompt attention were paid, which it rarely is, to the first notice to a defendant that a suit had been instituted against him, or to the subpœna to a witness that his evidence is required; 2ndly, something may be put to the account of the misconduct of the peons who are charged with serving the processes, and often do so in a very incomplete manner; and 3rdly, something may be attributed to the occasional indifference of the subordinate Judges, in not sufficiently superintending this department. All these causes do, I believe, combine to increase costs, and all may to some extent be counteracted by a stricter and better mode of procedure than we now have; still it is the principle upon which the issue of process is taxed, that is the root of the evil. This principle was made law* 40 years ago, and is tantamount to a declaration that it is a man's fault if he lives at any distance from the station of our established Courts, and that he must therefore pay heavily for justice. I cannot but think that the inhabitants of outlying towns, villages, and hamlets are entitled to obtain justice on equal terms with those who reside in or near the stations of our Courts; and it appears to me that nothing short of an extension of the principle of the stamp law, but better adjusted, will ensure them this privilege. Tulubana is scarcely felt at all in suits above Rs. 64 in value, but even in them it presses unequally. It is both grievously and unequally felt in all suits below that amount. The schedule of stamps, though requiring more extensive classification, is equitable in principle. It has no reference to the residence of suitors, but to the amount of their claims only, and tulubana ought to be levied on the same principle, and until this is done costs will continue to press very unequally in every description

Other causes do in a measure combine, and may be counteracted, but until the mode of levying tulubana is changed, the evil will remain.

* Regulation XXVI. 1814.

of suit, and unless abandoned altogether, which they should not be, both unequally and most heavily in petty suits.

95.—I have endeavoured to draw up a plan for levying costs more equally in every description of case, and from all litigants; but before describing it, I propose to bring into one view the results of the examination which has been attempted of the nature of the litigation, and of the attendant costs, both in time and in money, as proposed in paragraph 64. The results appear to be:—

Reviews the results of the preceding examination of the litigation.

1*st*.—That more than 80 per cent. of the litigation is for debts chiefly on bond, and that of the remainder most of the claims arise out of personal actions, while the entire litigation is of the simplest character.

2*ndly*.—That the greater number of the suits are for petty claims, in so much that in thousands of suits the claim is for less than Rs. 16, and in hundreds of suits the claim does not exceed Rs. 4.

3*rdly*.—That the costs of litigation are very unequal in every description of suits, but that in suits below Rs. 64 in value costs are both unequal and exceedingly heavy, and that they are most disproportionately so in the very petty cases.

4*thly*.—That the duration of cases is needlessly long, and might and should be greatly curtailed.

96.—In arriving at these results, I have not been able to avoid touching upon the main cause of disproportionately heavy costs, viz. the mode in which tulubana is levied. I have also alluded to the character of the people, their apathy and ignorance, as a cause both of expense and of delay. It is now necessary to consider what may be the effects of our mode of procedure, and whether it is adapted either to the nature of the litigation or the character of the people.

Proposes to examine whether mode of procedure is adapted to the litigation and to the people.

97.—To begin with the first step in a suit, viz. its institution. The disregard for truth of the entire mass of the people, and their litigiousness, is notorious; yet a plaint, written by an almost irresponsible person, a petition writer, is received, filed, and acted upon, by the issue of a notice to defendant to appear, without any attempt, by examination upon oath of the plaintiff, or otherwise, to ascertain whether he really has a cause of action. I do not mean to say that such examination will always, or even in most cases, elicit the exact truth, but it will be a vast improvement upon the present plan, and will certainly lead to the detection and rejection, *in limine*, of many a frivolous or unfounded claim. It will also to some extent diminish the total costs and the average duration of cases, independently of the saving of inconvenience to the parties attempted to be sued, and of the time of the Judges.

Plaint acted upon without it being ascertained whether there is really a cause of action.

98.—The second stage is the issue of a notice (Itlanameh) to the defendant to appear, and to reply to a suit. In most cases he disregards the notice from sheer apathy and ignorance. The next step, the proclamation, probably attracts

Mode of summoning defendant not suited to the people.

attention in a good many cases, but it is accompanied with considerable increase of costs, and with a prolonged duration of the suit. In many cases neither notice nor proclamation receives the slightest attention. The defendant does not appreciate the formality, "does not realize the consequence of disobedience, until he finds a decree has been passed, and is about to be executed, and then he repents too late." The process best suited to such a people is a summons, with instructions to the peon serving it to use every endeavour, short of actual force, in inducing the defendant to accompany him to Court. Should the defendant refuse to come, then a copy of the summons might be affixed to his house, and if this fails to cause his attendance on or before the date specified, a warrant of arrest should be issued. "It is more merciful to force an ignorant man to appear in Court than to pass a decree against him unheard." I have taken this and the foregoing quotation from Clause 2, Section II. of the commentary on procedure in the Punjaub, but the whole of the clause is applicable to 90 out of every 100 defendants in these territories. The present mode of procedure leads 1st to ex-parte decisions; and 2ndly to needless expense and prolongation of suits. It is true that ex-parte decisions are not very numerous here; still there are hundreds, while there should be tens only; and as regards costs, there cannot be a doubt that one summons, properly served, will save the expense of a second process to many a poor man, who would otherwise bring upon himself a grievous burden from sheer folly or ignorance.

Defective mode of ascertaining the issues.

99.—The third stage in a suit, both parties being present, is the mode of ascertaining the issues. This is not done in the most effectual way, nor in a manner best suited to the character of the people, or perhaps of the subordinate Judges. By Clause 2, Section IV. of Mr. Caldecott's Rules, the 2nd class Moonsiffs are expressly required to examine both parties, *vivâ voce*, but whether with or without oath or affirmation is not specified. However, it is always done without oath or affirmation, and the examination is little more than an abstract of the plaint and answer. Repeated instructions have been issued by my predecessors to all the Courts in the spirit and in the letter of the various Circular Orders of the Sudder Dewany Adawlut, North Western Provinces, regarding the mode of drawing up the statement of issues under Section 10, Regulation XXVI. 1814; but the object is in most cases very imperfectly attained, and little more than a rambling minute is recorded. Further, permission has, again and again, been accorded to the Courts in these Territories to question the parties regarding doubtful points; still little more to the purpose is recorded than is to be found in the diffuse and informal pleadings themselves.

Proper mode of ascertaining the truth, and if case cannot be decided at once, of fixing the issues.

100.—What appears to be required is, that there should be an intelligent and searching ascertainment of the truth, by the examination and cross-examination, on oath, of the parties themselves. This done, the Judge should either forthwith do justice between man and man, without any further proceeding, or else should persuade them to submit to arbitration. If

the case must be brought to a trial, a succinct statement of the specific issues gathered from the depositions should be drawn up, and both parties should be informed exactly what points are to be tried, and require to be proved. They should then be required to mention the names of their witnesses, and to state whether they will bring them themselves, or whether they require the assistance of the Court to enforce their attendance. Lastly, a day should be fixed for the examination of all the witnesses, and for trial of the case.

101.—The trial is the fourth stage, and it ought to take place on a fixed day, when the witnesses of both parties should be examined in their presence. This is not at present sufficiently attended to. The plaintiff brings his witnesses on one day, or even on several days, and the defendant adduces his evidence in the same manner, and the actual trial is probably held many days afterwards. I would leave no scope either for the people or for the presiding Officers of the Courts to indulge their inveterate habits of procrastination and want of punctuality. I think that the irregularity may be chiefly attributed to these causes, but it doubtless occurs at times from those which are still more objectionable, and even sinister. The Courts should be strictly tied down to a fixed day for hearing all the witnesses, and trying the case.

The trial; necessity of a fixed day for hearing witnesses and deciding the case.

102.—It appears to me therefore that the present mode of procedure is not adapted either to the nature of the litigation or to the habits, feelings, and character of the people, and that it both permits and occasions unnecessary expense and delay in the trial of suits.

Present mode of procedure not adapted to the litigation or to the people.

103.—The rules of procedure in use in Bengal and the North Western Provinces have been too closely followed. Those rules have been universally condemned, as cumbersome and obstructive of justice, and although they have been somewhat pruned ere they have been introduced into the Courts of these Territories, they have still brought with them much superfluous form, and a clumsy way of getting at the truth.

It is too close an imitation of the cumbersome system of the old Provinces.

104.—The draft bill for the more easy recovery of small debts and demands, which was read in the Legislative Council on 15th April 1854, was intended to liberate the great mass of the litigation from the injurious action of the present obnoxious and effete rules. The bill as it passed Council on 9th ultimo, with all the objections to it, will have the same effect.

Object of draft bill for the more easy recovery of small debts and demands.

105.—I, however, am quite of Mr. Welby Jackson's way of thinking, that "what is required for India is a simple and decisive system of administration of justice; and that the Courts be empowered to use the readiest and most effectual method of arriving at the truth, and deciding accordingly, &c. &c. The simple way of settling a dispute is to hear what the parties say, and on the points upon which they to hear witnesses or read documents; in fact, to refer to third

Paragraph 55, general Report of a tour of inspection, No. XVI. Selections from the Records of the Bengal Government.

106.—I cannot but think that this is the most reasonable and effectual method of dispensing justice, whether the claim be for Rs. 5 or for Rs. 50,000, and whether the dispute be regarding a petty contract or the right to real property.

The process applicable to every description of case.

107.—In the Punjaub they do not appear to have different modes of procedure for the small cause (tehseeldaree) Courts and for the superior Courts. Every grade of Court seems to have jurisdiction in every description of case up to a certain value, and to try every description of case by the same rules.

But one mode of procedure in Punjaub.

108.—These rules are not very dissimilar to the provisions of the Bill just passed by the Legislative Council for the trial of summary actions, save as regards immediate execution of decrees, and no appeal. In other respects, such as the institution and attestation of the plaint, the mode of summoning of defendant and witnesses, the confronting of parties, the filing of issues, and the trial, there is great similarity.

Similarity between Punjaub code and new Bill.

109.—After the best attention which I have been able to give to the subject, I have come to the conclusion that the Punjaub rules, with some modifications, and the addition of several provisions, both from the bill which has passed Council, and from the draft bill which was first published, will constitute the best and most complete code of procedure for the guidance of the Civil Courts in these Territories in every description of suit.

Considers that they together will furnish the best code for these Territories.

110.—I have ventured to compile a draft of such rules for the consideration of the Hon'ble the Lieutenant Governor. It is mentioned in the margin whence each section has been taken, but it may be expected that I should offer a few remarks upon the general provisions which the draft contains.

Such has been compiled, and is submitted, with observations.

111.—*1st. Jurisdiction.* It is desirable that most of the 2nd class Moonsiffs should be allowed to take cognizance of suits up to Rs. 1,000; one of them, the Moonsiff of Seonee, (Hoshungabad,) has this permission already. I have recommended in my annual Report for 1854 that the same power should be conferred on the 2nd class Moonsiffs of Jubbulpore, Sehora, Rehly, Khoorye, and Saugor, with a view to the relief of some of the Courts of superior grade, and to an equalization of the work; and therefore a provision to this effect has been introduced. There is no other change.

Clause for extension of powers of 2nd class Moonsiffs.

112.—*2ndly. Statute of limitation.* Bonds and contracts are written in such an informal manner, and the evidence which is adduced in support is generally of such an exceedingly unsatisfactory nature, that I beg to offer it for His Honor's consideration, whether the limit within which such suits may be brought should not be reduced from twelve to three years. I have shewn for what very small sums the generality of bonds are written. They are almost always payable within a year, and therefore a period of three years from the date that the cause of action arose would appear to be ample. The limit of one year for the actions specified would also appear to be ample.

Period for institution of suits on bonds, &c. proposed to be shortened.

113.—*3rdly.* Regarding the institution and admission of suits, the summoning of defendant and witnesses, the confronting of the parties, and the trial and decision of cases, I need offer no remarks. The objects aimed at have already been mentioned, and are apparent on the face of the rules.

Institution, admission, and trial of suits.

114.—*4thly. Execution of Decrees.* Having in the annual report recommended the appointment of Ameens for the attachment and sale of property in execution of decrees, I am in hopes that that measure, and the rules proposed in the draft, will infuse some vigor into this department. His Honor will not fail to observe that I have copied bodily from the Punjaub code the admirable practice of clearing property about to be sold in execution from all liens upon it. The reasons for this measure are set forth in Clause 3, Section V. of the Punjaub Commentary on Procedure.

Expected improvement in the department of execution of decrees.

115.—*5thly. Appeal.* It is proposed to continue the right of appeal in every case, and of special appeal as heretofore. I have stated that 1,18,978 suits have been decided during the last ten years. During the same period there were 9,312 common and 2,966 special appeals admitted and decided. That is to say, only 7 per cent. of the original suits have been brought before the Principal Sudder Ameen in regular appeal, and 31 per cent. of the orders of the Appellate Courts have been admitted to special appeal. It is clear that the privilege of appeal has not been abused, nor have the files of the Appellate Courts been overloaded. It may reasonably be expected that, with a more searching mode of ascertaining the truth, justice will be done in a still greater number of cases than heretofore, and that the appeals will be still fewer. I therefore recommend that the door of appeal be left wider open to every suitor, and for every description of case.

Proposed to keep the door of appeal and of special appeal open in every case.

116.—I must now revert to the subject of costs. The importance of a simple and effective mode of procedure cannot be over-rated. Besides its other advantages, it will doubtless exercise considerable effect in reducing costs, but as the principle upon which the issue of process is taxed is not included in either of the codes of procedure which have been taken as our text-books, it is necessary to consider the subject of costs separately, and somewhat in detail.

Reverts to subject of costs, and the principle upon which they are taxed.

117.—And first of institution stamps. Schedule B. Regulation X. of 1829, upon which the schedule of institution stamps in use in these Territories is founded, appears to have been devised at a time when the minuteness of the litigation of the country was not known. I give in the

Unequal pressure of institution stamps shown. Proposes a new scale, and shews the consequent loss of stamp revenue.

		Stamps required.	Per-centage.
*Not exceeding	Rs. 4	0-8-0	12·50
„	„ 8	0-8-0	6·25
„	„ 16	0-8-0	3·12½
„	„ 24	1-0-0	4·16
„	„ 32		3·12½
„	„ 48	2-0-0	4·16
„	„ 64		3·12½
„	„ 150	4-0-0	2·66
„	„ 300	8-0-0	2·66
„	„ 800	16-0-0	2·

margin* the effect of the present schedule. It will be seen at a glance how unequally the institution stamp presses on the sub-divisions of suits. The principle upon which Schedule B. was drawn up was to take 6¼ per cent. in cases up to claims for Rs. 64, and the idea in our schedule was to take half that per-centage, but it will be seen that in practice, instead of 3¼ per cent., the very petty suits pay 12½ and 6¼ per cent., while the suits midway between Rs. 16 and 32, and midway between Rs. 32 and 64, pay rather more than one per cent. more than those with which they are classed. I recommend that claims not exceeding Rs. 4 be admitted on 2-anna stamps, and claims not exceeding Rs. 8 on 4-anna stamps. Suits for claims between Rs. 16 and 24 should be admitted on 12-anna stamps, and suits for claims between Rs. 32 and 48 should be admitted on stamps of Rs. 1-8-0. The per-centage in each case would then be as in the margin,† viz. exactly 3¼ per cent. I do not see why the larger suits should be admitted at a smaller per-centage, but I need here only draw attention to the fact that they are very much favored. The plan I propose will necessarily cause some falling off in stamp revenue, but it will go so far to equalize the costs of litigation, which is a matter of such importance that I shall hope there will be no obstacle on the score of decrease of revenue. The calculation of loss founded upon the number of suits decided last year is as follows:—

		Stamps required.	Per-centage.
† Not exceeding	Rupees, 4	0 2 0	3·12½
„	„ 8	0 4 0	„
„	„ 16	0 8 0	„
„	„ 24	0 12 0	„
„	„ 32	1 0 0	„
„	„ 48	1 8 0	„
„	„ 64	2 0 0	„

	Suits.	Present stamp.	Revenue.	Proposed stamp.	Revenue.	Decrease.
Not exceeding Rs. 4	500	0 8 0	250	0 2 0	62·8	187 8 0
„ „ 8	1,500	0 8 0	750	0 4 0	375·0	375 0 0
Between „ 16 & 24	2,000	1 0 0	2,000	0 12 0	1,500·0	500 0 0
„ „ 32 & 48	1,200	2 0 0	2,400	1 8 0	1,800·0	600 0 0
			5,400		3,737·0	1,662 8 0

The proposition entails the probable decrease of Rs. 1,662-8-0 per annum in stamp revenue.

	Rs.	A.	P.
*1844, ...	28,072	8	0
1845, ...	31,330	8	0
1846, ...	34,125	0	0
1847, ...	39,912	0	0
1848, ...	41,916	8	0
1849, ...	34,713	8	0
1850, ...	42,813	2	0
1851, ...	34,013	14	0
1852, ...	35,159	8	0
1853, ...	37,283	8	0
1854, ...	39,638	4	0
	3,99,038	4	0

118.—The table in the margin* shews the annual amount of stamp revenue which the action of the Civil Courts has produced since the introduction of Mr. Caldecott's Reform Bill in 1843. It is doubtless the case that the stamp tax, as here shewn, does not yet cover the cost of Civil Courts to Government. The total charges exclusive of my own establishment, but inclusive of the two Principal Sudder Ameens' and all the Courts of primary instance, are Rs. 58,800 per annum. Omitting the Principal Sudder Ameens,' the charges of the other Courts amount to Rs. 42,000, and it will be seen that the stamp revenue has once exceeded, and once very nearly equalled this sum, while last year it fell short of it by less than Rs. 3,000.

Stamp revenue does not yet fully cover the costs of Civil Courts.

119.—The revenue has been steadily increasing, and I feel persuaded that any diminution which the proposed plan may cause will be only temporary. As a set-off it may be remarked, that many petty suits which are probably now kept back, owing to the enormous expense of prosecuting such cases, will be instituted in future, and this will of course give some increase of stamp revenue; and it must also be borne in mind that a stricter observance of the stamp law on all money transactions which has been lately enforced by this office will result in an increased sale of stamps, for which the Civil Courts do not get credit.

Reasons for supposing that the diminution of revenue will be temporary only.

120.—*Tulubana.* In examining the actual costs of litigation I have stated, in paragraph 94, that unless the principle which governs the levy of institution stamps is extended to the charges for issue of process, costs will continue to be unequal in every description of case, and both unequal and oppressive in all petty suits. This is because tulubana is levied with reference to the distance at which the litigants live from a Civil Court, instead of being a fixed charge in proportion to the claim, as is the case with stamps.

Tulubana should be levied on same principle as institution stamps.

121.—It is not perhaps possible to bring justice home to every man's door, but neither is it necessary or equitable to impose a heavy fine upon suitors who happen to live at a distance from our Courts. It may be a man's misfortune, but surely it is not his fault, that he lives several miles off from a Civil Court. No allowance is made for the inconvenience, hardship, and expense of the journey to and fro, but in addition thereto he must pay many times more for every process which is taken out in his case than does the man who happens to live, as it were, under the shadow of the Court.

Injustice of making the suitor who happens to live at a distance pay many times more for the issue of process than one who lives near the Court.

122.—If there be any difference at all, it should rather be in favor of those who live at a distance, but I apprehend that the most equitable plan would be to have a fixed charge for tulubana, which should be calculated with reference to the amount of the claim, as in the case of stamps. I have drawn up such a plan,* in which the tulubana fund is fixed at precisely the same amount as the institution stamp, except when the claim exceeds Rs. 3,000. I have also proposed a scale of remuneration for the petition writers. It is intended that the amount shewn in each class of case should cover all expenses of process. The highest per-centage of costs to claim is 7·81, which is in the smallest cases, and it gradually falls to only 3 per cent. in the largest suits. I do not say that this is equitable, but as the tulubana fund is founded on the stamp schedule, which is in favor of the larger suits, my plan necessarily evinces the same favoritism. At all events, there is no such monstrous difference in costs as now obtains, viz. 126 per cent. in petty cases, and only 2·13 per cent. in the largest.

Plan proposed and submitted for a fixed charge in each class of case in Table D.

* Statement D.

123.—I annex a Statement E., which will shew the effect of the proposed plan on the suits decided last year, as classed in Statements B. and C., with which it should be compared.

Effect of the plan shown in Statement E.

124.—It will be seen that the proposed per-centage would yield only Rs. 53,729, but Mookhtars' fees are not included, while in the actual costs of last year they were in some instances included. Moreover, it doubtless happened that a great many unnecessary processes were issued last year, which under the new system and a stricter mode of procedure will not happen. The proposed plan will therefore yield an ample fund for all charges, without entailing any extra expense upon Government. The tulubana fund alone will yield the sum of Rs. 24,360 per annum, which will be sufficient to pay the salary, Rs. 20 per mensem, of one Nazir, and of thirty peons, at Rs. 4 each, for every one of the fourteen Courts of primary venue. The plan will of course throw the costs which are saved to the smaller suits on to the larger, but in no case will the increase be much more than one per cent., and in all cases above Rs. 64 in value costs will still be 2, 3, 4, and nearly 5 per cent. less than in suits below that amount.

Total amount is less than actual costs of last year, but will be ample, for reasons stated.

125.—I have put on paper various schemes, and among them one founded on the plan of fees issued by the Lords of the Treasury for the County Courts in England.* There the fees consist of—

Plan of fees in County Courts in England considered.

* Law and practice of County Courts. Lloyd, page 616.

The General Fund,

Poundage,

Bailiffs' Fees,

each of which is fixed with reference to the amount of claim. If a process is carried more than two miles from the Court-house, then there is an extra charge

of 6*d.* for every mile, but when it is remembered that England and Wales, which together are not half as large again as these Territories, contain 699 County Courts alone, and that there is every convenience for cheap and expeditious travelling in all directions, while here we have but fourteen Civil Courts of primary venue, spread over a very extensive tract of country, where the means of communication are still in the most primitive state, it must be admitted that, although mileage may be a proper enough charge in England, cossage cannot be justified in these Territories.

Tulubana fund should be so fixed, as one case with another, and without cossage, to cover all expenses of carrying process, without reference to distance.

126.—Our institution stamp may be considered as representing the general fund and poundage, and I would have a tulubana fund on the same principle as the bailiffs' fee, viz., with reference to the amount of the claim, but sufficient, one case with another, and without cossage, to cover the expense of carrying processes to the greatest distance from the Courts.

Peons should be employed, on a fixed salary.

127.—This would of course do away with the present system of Muzkooree peons. A sufficient number of them should be borne on the permanent establishment, and should receive a fixed salary of Rs. 4 per mensem.

The institution stamp and tulubana fund might be clubbed together, and levied by requiring a single stamp of increased value to be filed.

128.—The simplest and least objectionable way of levying the tulubana fund would be by clubbing it with the institution stamp, and requiring the plaint to be written on a paper of double the value hitherto in use or now proposed to be used.

Mookhtars' fees, and subsistence of witnesses.

129.—There would then be only Mookhtars' fees in those cases in which the employment of Mookhtars is allowed, and subsistence allowance of witnesses. The last will still be a heavy expense to suitors when their witnesses come from a distance.

Difficulty of providing a fund for subsistence of witnesses renders it more imperative to have a fund for issue of process.

130.—It does not seem possible to provide a remedy, but this is only an additional argument for fixing the charges on issue of process. It may not be feasible to establish a fund for paying the subsistence of witnesses, but it is surely just and feasible to provide a fund for issuing processes at a fixed charge, according to the supposed circumstances of the suitor, and calculated with reference to his claim; that is to say, the subject who lives near a Court of Justice shall not be allowed the aid of the Officers of that Court in enforcing the attendance of parties except at the same charge as his fellow-subject of similar means who happens to live at a distance: until this is done, or process is issued free of expense in all cases below Rs. 64 in value, costs will remain unequal in cases of the same description and amount, and exceedingly heavy, as well as unequal, in petty suits.

Objection to relinquishment of costs for process.

131.—To the relinquishment of costs there are two obvious objections:—

1*st.* That our Courts would be overwhelmed with litigation, much of which would be false and unfounded.

2*ndly.* If Government does not charge suitors for the expenses of issuing

process, others most assuredly will do so. It is far better, in India at any rate, to have a recognized Government charge. It may not stop extortion altogether, but it does so to a great extent.

Tribunals for administration of Civil Justice in Mundla.

132.—I have incidentally mentioned that two of the Courts established by Mr. Caldecott, viz., the Sudder Ameens' Court at Shahpore (Mundla) and the Moonsiff's Court at Mundla itself, have been abolished, and Pergunnah Courts have been re-established, under the presidency of Tehseeldars. There is also a third Pergunnah Court in the district of Mundla, and in cases above Rs. 600 in value the Deputy Commissioner exercises original jurisdiction, and he hears appeals from the Pergunnah Courts; a special appeal lies to this office. Such is the present provision for the administration of Civil Justice in the district of Mundla.

Provision in Hurda Hindeea.

133.—Again in the Ceded Districts of Hurda Hindeea there are—

3 Pergunnah Courts, with jurisdiction up to Rs. 400.

1 Assistant Superintendent's Court (Native), with original jurisdiction in suits above Rs. 400, and with appellate jurisdiction over the Pergunnah Courts.

1 Deputy Commissioner's Court at Hoshungabad, with original jurisdiction in large suits, and with appellate jurisdiction over the Assistant Superintendent.

Special appeals lie to my Court, with which the general control rests.

Also in petty States under Superintendent of Nagode.

134.—Lastly, in the four petty States* under the Superintendent of Nagode there are—

4 Pergunnah Courts, with jurisdiction up to Rs. 600.

* Oocheyra, Sohawull, Myhere, Bijairaghoghur.

1 Superintendent's Court, with original jurisdiction in large suits, and appellate jurisdiction over the Pergunnah Courts.

Special appeals are preferred to this office.

All these Courts subordinate to this Judgeship.

135.—There are therefore—

10 Pergunnah Courts.

1 Assistant Superintendent's Court (Native),

1 Superintendent's ditto,

2 Deputy Commissioner's ditto,

subordinate to this office, which have not been included in the foregoing report.

They are generally guided by Jalaon rules.

136.—His Honor is aware that they are generally guided by the Jalaon rules for Pergunnah Courts. Without enlarging upon the mode of procedure prescribed by those rules, I may be permitted to express the hope that the day is not distant when all these Courts shall be recognized and subjected to much the same system which has been proposed for the regular Courts in these Territories, or, which would answer the purpose equally well, the Pergunnah Courts might be put on exactly the same footing as the Tehseeldaree Courts in the Punjaub.

137.—The whole of these Courts, including the Mundla Pergunnah Courts, were formerly under the Commissioner of the Division, and their superintendence has been transferred to this office within the last few months only. It is but lately that I have succeeded in obtaining correct or regular periodical returns, and in learning the state of the administration of Civil Justice in those parts. I am not therefore able at present to enter into any detail of the proceedings of those Courts, or to submit any definite project for their re-construction, but merely mention their existence, and that they have my attention.

Only lately subjected to this office.

138.—I cannot close this report without acknowledging the courtesy with which the Commissioner has given me access to the records of his office. My own records date from the year 1843 only, when this Judgeship was created; but through Major Erskine's courtesy, I have had unreserved access to all documents upon the former administration of Civil Justice in these Territories.

Acknowledges Commissioner's courtesy in permitting access to his records.

A. A. ROBERTS,
Civil Judge.

II.—*Draft of proposed rules for the guidance of the Civil Courts in the Saugor and Nerbudda Territories.*

[NOTE.—The passages omitted in the Rules as approved by Government are printed in Italics. The additions are in the margin.]

Jurisdiction of Courts.
The same as now.

SECTION I. *Clause* 1.—The Courts of primary instance shall exercise jurisdiction as follows:—

The Sudder Ameens shall try suits without limit of amount.

The 1st Class Moonsiffs shall try suits not exceeding Rs. 5,000 in value.

The 2nd Class Moonsiffs shall ordinarily try suits not exceeding *Rs. 400 in value, but when specially authorized they may try suits up to* Rs. 1,000 in value.

Clause 2.—No Judge *of primary instance* shall hear or try a cause in which either of the parties may be his relative, a dependent, or creditor, or spiritual instructor.

Clause 3.—No Judge of primary instance shall admit a suit in formâ pauperis, but the Civil Judge may refer such suits to any subordinate Judge for tri-

SECTION II.—No action shall be entertained unless instituted within the periods hereinafter mentioned from the time that the cause of action arose or accrued in each description of case:—

*Statute of Limitation.**

Actions respecting the succession or right to real and personal property and partnership, ...	12 years.
Ditto for debts on bond, or accounts not being partnership accounts,..	6 years.
Ditto for parole debts, injuries to person or characters, disputes regarding marriage, caste, or non-fulfilments of contract,..	1 year.

Provided that the time shall be excluded during which the plaintiff shall be under the disability of infancy, lunacy or idiotcy, or during which the plaintiff shall be precluded by law from suing the defendant by reason of any disability whatever, either of the plaintiff or of the defendant.

SECTION III.—The plaint may be written either in Hindee or in Oordoo. It shall state the name and residence of the plaintiff, and also the name and residence of the defendant, the substance and value of the claim, and the date of the cause.

Mode of Plaint.

Section XII. of the new Bill. Present practice.

SECTION IV.—If the plaintiff sue on a bond, or rely in support of his claim on any document in his possession other than an entry in

Documentary evidence to be produced by Plaintiff.

Section XIII. Bill. Punjaub Code, Clause 2, Section 2. Procedure.

*Note.—In England six years, and in some cases four years, is the limit within which personal actions must be brought. It is proposed to maintain the longer period except in cases for debt and damages, in which the limit should be much reduced in India in reference to the informal manner in which bonds and contracts are executed, and the nature of the evidence which is generally adduced in such cases.

book, he shall deliver the same to the Court at the time of making or presenting his claim; and if the document be an entry in a book, he shall produce the book to the Court, together with a copy of the entry on which he relies; and unless such document be delivered in,[1] or unless the Court may see fit to extend the time for producing the same, it shall not be admitted to proof in support of his claim.

[1] or its non-production at the time be sufficiently excused,

Mode of procedure after plaint received.
Bill, Section XIV.
Punjaub Code, Clause 2, Section 2, Procedure.

SECTION V.—The Court, having received a plaint, shall proceed thereupon to make inquiry by examination of the plaintiff or his authorized agent, upon oath or affirmation, as to the merits of the claim, and shall record the examination in full. The Court shall reject the plaint, unless it appear that the plaintiff has a cause of action, or if it shall appear that the defendant, or matter of the suit, is not within the jurisdiction of the Court, or that the action is barred by the lapse of time. If the plaint be not rejected, it shall be filed, together with any document produced in support thereof, unless the document be a book; in which case the Court, after examining and comparing the copy of the entry produced with the original, and marking the original, shall cause the copy to be filed, and the original book to be returned.

On rejection of plaint, Court to record its decision, and the reasons, in the language of the Judge.
Bill, Section XV.

SECTION VI.—The Court, upon rejecting a plaint, shall record its decision, which

shall be reduced to writing in the vernacular language of the Judge, together with the reasons upon which it is founded.

SECTION VII.—If the plaint shall be admitted, the Court shall direct the issue of a summons, *which shall contain an order to the defendant to appear before the Court on a fixed date. In the writ of summons shall be*[1] specified the name and residence of the plaintiff, and the amount or description of the claim.

*On admission of petition, Court to direct issue of summons to the defendant.

[1] in which shall be

SECTION VIII.—The day to be specified in the summons shall be fixed with reference to the state of the file, and the distance that the defendant may be, or is supposed to be, at the time, from the place where the Court is held; and the summons shall order the defendant to produce any document which he may have in his possession, of which the plaintiff demands inspection, or upon which the defendant may intend to rely in support of his defence.

The day to be specified in the summons, how to be fixed. Defendant to be ordered to produce necessary documents.

Bill, Section XVII. Clause 3.

SECTION IX.—The Officer in charge of the summons shall endeavour to obtain the signature of the defendants, or, in the event of their absence, shall proceed to their residence, and acquaint their families or neighbours with the object of his

How the summons is to be served.

SECTION IX.—*The summons shall be served personally on the defendant by a peon, who shall ordinarily accompany the defendant into Court, but shall not use any force in causing such attendance, and shall not arrest the defendant*

Summons how to be served.

Punjaub Code, Section 11, Clause 2, Procedure.

* *Note.*—Every word in Clause 2, Section 2, of the commentary on procedure in the Punjaub is applicable to the people of these territories. I would insist upon the personal appearance of defendant.

mission, and shall obtain the signature of two credible persons to the summons, in proof of service. On his return, the Nazir shall ascertain from him, and report, in writing, the mode in which the summons has been served.

If the defendant fail to attend, proclamation to be issued.

SECTION X. *Clause* 1.—On the expiration of the period specified in the summons, if the defendant, or any of them, fail to attend the Court, proclamation shall be issued for their attendance within a further period, to be fixed, according to local circumstances in the different parts of the country.

Answer may be filed through an agent, on special grounds.

Clause 2.—If, within the period fixed by the summons or proclamation, an application shall be made to the Court to permit the answer to the plaint to be filed through the agent, or in writing, the Court may, on special grounds shown to its satisfaction, grant the application.

In what manner, and on what conditions, the defendant is to be arrested.

Clause 3.—But if the party shall fail to attend, or shall not have been excused attendance under the preceding Clause, the Court, on finding, after an examination of the plaintiff's case, that he has a good primâ facie cause of action, may, in its discretion, issue a warrant for the arrest of the defendant, who shall thereupon be taken into custody, and brought before the Court; but no defendant shall be so arrested, who shall give to the party charged with the warrant a

If personal service be not effected, summons how to be served.

Bill, Section XIX.

SECTION X.—*If personal service be not effected, the peon shall deliver a copy of the summons to some adult male member or servant of defendant's family, residing or being in his dwelling house or place of business, or by affixing a copy of the summons to some conspicuous part of his usual place of abode or place of business, and also by affixing copies of the same to the Court House. The Nazir shall endorse on the original summons the reason of not serving it personally, and how it has been served.*

if he should refuse to attend. The Nazir shall endorse on the summons the fact of personal service if it has been effected, and whether defendant is in attendance or no.- In the latter case the reason of defendant's non-attendance must be stated.

declaration in writing that he is willing that the case should be tried ex parte.

SECTION XI.—*If on or before the day appointed for appearance, the defendant does not attend, and there be reason to suppose that the service has not been made in sufficient time to admit of the defendant conveniently attending the Court on that day, the Court may adjourn the hearing to another day, not exceeding one week, which shall be made known to the parties by a proclamation affixed to a conspicuous part of the Court House.*

When Court may adjourn the hearing of a case to a day to be fixed by proclamation.

Bill. Section XXIII. Clause 1, except the limitation of adjournment to one week.

SECTION XII.—*If the defendant should still fail to attend, but there should not be reason to believe that his non-attendance is wilful, then the Court shall issue a proclamation, copy of which shall be affixed to defendant's dwelling house or place of business, requiring defendant to appear within twenty-one days, and intimating that at the expiration of that period the case will be proceeded with, and judgment given. Another copy of the proclamation shall be affixed to the Court House.*

When proclamation is to be issued for attendance of defendant.

Taken partly from Clause 5, Section 2, Punjaub Code.

SECTION XIII[1].—If at any time after the admission of the plaint the Court should be satisfied that the defendant conceals himself, or otherwise evades

When Warrant of Attachment may be issued.

Act XIX. 1853, Sections 24 and 27, Punjaub Code, Clause 5, Section 11.

[1] Section XI.

process of the Court, or is disposing of his property and effects with intent to defraud the plaintiff, or is about to withdraw his person or effects from the jurisdiction of the Court, in order to avoid any judgment in the case, the Court may at once cause his property to be attached.[1]

[1] and issue a warrant for his arrest wherever he may be found.

SECTION XIV[2].—If the defendant be arrested under the warrant, and shall not deposit the amount specified in the warrant, he shall be brought before the Court without any unreasonable delay, and the Court shall, with all convenient speed, proceed to take his answer to the complaint; and if the suit cannot be at once adjudicated, the Court may require security from the defendant for his appearance in Court, whenever the same may be required by the Judge at any time whilst the suit is depending before the Court, or before the final decree which may be passed thereupon shall be[3] *fully and carefully* carried into execution, and may commit him to the Civil Gaol of the District, until he shall furnish the same, or deposit in Court such a sum as the Court order.

[2] Section XII.

On arrest of defendant, what to be done.

Sections XXXIII. and XXXIV. of the Draft Bill.

[3] completely

SECTION XV[4].—If the claim of the plaintiff be dismissed, and the Court be satisfied that the application for the arrest was without reasonable cause, the Court may, upon the application of the person arrested, award to such person a sum not exceeding the amount

[4] Section XIII.

Penalty to plaintiff for a false arrest.

Section XXXV. of the Draft Bill, with a proposed amendment as to amount of damages.

of the property or claim in dispute, provided that the award shall in no case exceed Rs. 100, as damages for any injury or loss which he may have sustained by reason of such arrest, to be recovered as part of the costs of suit, and such award shall bar any suit for such arrest; but the party arrested, instead of applying to the Court for damages under this Section, may proceed in a regular suit on account of such arrest.

SECTION XVI[1].—Upon the appearance of parties on the day named in the summons, or upon any subsequent day to which the hearing of the case may be adjourned, the Court shall proceed to examine the parties present, or their agents, upon oath or solemn affirmation; and either party may cross-examine the other. The depositions shall be taken down in writing,[2] in the vernacular language of the Judge, who shall then try to induce the parties either to compromise the suit, or to submit to arbitration.

[1] Section XIV.

On appearance of parties they are to be examined by the Court, and may cross-examine each other.

Section XXXVI. and XXXVIII. Draft Bill, Section 2, Clause 2, Punjaub Code, Procedure.

[2] in a narrative form,

SECTION XVII[3].—If the parties shall not agree to a compromise or to arbitration, and either of them shall bring forward any witness on such day, the Court may take the evidence of such witness either on that day, or any subsequent day which may be fixed for the examination of witnesses.

[3] Section XV.

Witnesses when to be examined.

Section XXV. of the Bill.

[1] Section XVI.

[2] Section XIV.

After examination Court may make its decree if no further evidence is required.

Section XXVII. Bill.

SECTION XVIII[1].—If, after the examination required by Section XVI[2]., and also the examination of any witness who may attend to give evidence on behalf of either of the parties, a decree can be properly made without further evidence, the Court shall make its decree accordingly.

[3] Section XVII

Court to record issue, and to fix a day for hearing evidence.

Section XXVIII. Bill. Clause 2, Section 2, Punjaub Code.

SECTION XIX[3].—If any issue result from the examination upon which it is necessary to hear further evidence, the Court shall declare such issue,[4] and shall ascertain and record the names of the witnesses whom the parties intend to adduce, and whether the parties will bring their own witnesses, or whether they or either of them require the assistance of the Court to procure the attendance of a witness, either to give evidence or to produce a document. The Court shall then fix a convenient day, not more than ten days' distant, *and when practicable less*, for the examination of witnesses, and the trial of the suit, and shall, if required to do so, summon the witness or witnesses of either party, or of both parties, to attend on the fixed day, and the trial shall take place on that day, unless there be sufficient reason for adjourning it, which reason shall be recorded by the Judge.

[4] in brief and precise terms,

[5] Section XVIII.

Documentary evidence how given by defendant.

Section XXVIII., Clause 2, Bill.

SECTION XX[5].—If the defendant, in support of his defence, rely on any

document in his possession other than an entry in a book, he shall deliver the same to the Court at the time of making his defence, and the Court shall file the same; and if the document be an entry in a book, he shall produce the book to the Court, together with a copy of such entry; and the Court, after examining and comparing the copy with the original, and marking the original, shall cause the copy to be filed, and the original book to be returned to the defendant; and unless such document as above-mentioned be delivered in, or its non-production be sufficiently excused, or unless the Court extend the time for producing the same, it shall not be admitted to proof in support of the defence.

SECTION XIX. *Clause* 1.—Every summons for the attendance of a witness to give evidence, or to produce a document, shall require the intended witness to attend at a time and place to be named in the summons, and shall also state whether the attendance of the witness is required for the purpose of giving evidence, or producing a document, or for both purposes. If a witness, whether a party to the suit or not, is required to attend, and to produce before the Court any document alleged by the party summoning him to be in his possession or power, a direction to attend the Court with such document shall be inserted in the summons, and the document which the witness may be so called upon to produce shall be described in the summons with convenient certainty.

Mode of summoning witnesses.

SECTION XXI.—*Witnesses shall be summoned in the same manner as has been prescribed for the defendant. The peon shall ordinarily accompany the witnesses to Court on the appointed day, but shall not use force in causing such attendance, nor shall he arrest a witness without a warrant. Attendance of witnesses shall be enforced in the same manner as has been prescribed for a defendant. In case of a contumacious refusal to attend or to give evidence, or to produce a document, the Court may impose a fine not exceeding Rs. 500, realizable by distraint, but no fine shall exceed the amount of the property in dispute in the suit.*

Mode of summoning witnesses.

Punjaub Code Clause, 6, Section 2, Act XIX. 1853.

Clause 2.—Every such summons shall, if possible, be served personally upon the person thereby required to attend, by showing the original to such person, and at the same time delivering or tendering to him a copy thereof.

Clause 3.—Such service must be made a sufficient time before the time specified therein for his attendance, to allow the witness a reasonable time for preparation, and for travelling to the place at which his attendance is required.

SECTION XX.—If any witness, on whom any summons to give evidence or produce a document shall have been duly served, either personally, or in like manner as has been above prescribed in Section IX. for serving a summons on a defendant, shall, without lawful excuse, fail to comply with such summons, or, attending or being present in Court, shall, without lawful excuse, refuse to give evidence, or to subscribe his deposition, or to produce any document in his custody or possession, named in the summons, upon being required by the Court so to do, the Court shall have full power and authority to issue an order in writing to the Nazir to apprehend and bring the witness before the Court, or if he be already before the Court, to take him into custody. And such Court may impose on such witness a fine not exceeding Rs. 500 for his default or refusal, realizable by attachment and sale of his property; and may commit him to close custody until he shall consent to give his evidence, or to sign his deposition, or to

produce the document; and any such fine as aforesaid shall be levied and recovered by attachment and sale of the property of such person. Provided that no fine imposed under the provisions of this Section shall exceed the amount of the property in dispute in the suit.

SECTION XXI.—If a person, for whose attendance, either to give evidence or produce a document, a summons shall have been served as above ordered, shall fail to attend, the Court, upon proof that the evidence of such witness, or the production of the document, is material, and that the witness absconds or keeps out of the way to avoid such attendance or production of the document, may cause a proclamation requiring the attendance of such person to give evidence, or produce the document, at a time and place to be named therein, to be affixed, in the presence and with the attestation of two respectable house-holders, in some conspicuous place, upon or near to his house or place of abode; and if such person shall not attend at the time and place to be named in such proclamation, and it be proved to the satisfaction of the Court that the witness cannot be found his property, real and personal, to such amount as the Court shall deem reasonable, (but subject to the same limitation as to the articles exempt from attachment, as in case of attachment for arrears of rent,) shall be liable, under an order of the Court, to attachment and sale.

Parties to appear personally when so required.
Section XXXIII. Bill.

SECTION XXII.—Every plaintiff and defendant summoned to attend

personally shall, except as hereinafter provided, appear in person on the day specified in the writ of summons, and on every other day fixed for their appearance by the Court.

Pleaders or Agents may be employed, but in what case only their remuneration to be allowed in costs.

Section XXXIII. Bill. Clause 3 Section IV. Punjab Code.

SECTION XXIII.—Any party to a suit may employ an authorized Mokhtear or Agent to conduct the case on his behalf, but the appointment of such Mokhtear or Agent shall not excuse the personal appearance of the plaintiff or defendant, in cases when his personal attendance is required by an order of the Court, nor shall the Court adjudge the losing party to pay the fees or remuneration of the Mokhtear or Agent of the other party, unless the latter [1] *prove to the satisfaction of* the Court that he was unable to conduct the case in person, which circumstances shall be mentioned in the decision.

[1] satisfy

Females of rank, when parties to a suit, exempted from personal attendance; also parties under certain circumstances, unless required to attend as witnesses.

Section XXXIV. Bill.

SECTION XXIV.—A plaintiff or defendant may be excused from appearing in person if of the female sex, and of a rank and description which, according to the prejudices of the country, would render it improper to require her personal attendance in Court. A plaintiff or defendant may be excused by the Judge from attending in person if there is a co-plaintiff or co-defendant who appears in person, or if the opposite party

and shall, by himself, or by some one duly authorized on his behalf, admit the cause of action, or any part of it, the Court shall proceed to give judgment upon such admission, as if the plaintiff had appeared, provided that such judgment, if there be several defendants, shall be only against the defendant who makes the admission.

Clause 2.—If on such day the defendant only shall appear, and shall dispute the demand, the Court shall allow the case to stand over for fifteen days. If the plaintiff appears within that time, and applies on a stamp paper of one-half the value of that on which the plaint was instituted, but in no case of less value than eight annas, to continue his prosecution, the case may be proceeded with; but neither the value of the stamp paper on which the petition for re-opening the case is written, nor the cost of any process for summoning defendant a second time, shall be included in the costs of the suit, or be allowed to the plaintiff.

*If defendant only appear, and dispute the demand, the case to stand over for [illegible] it.**

SECTION XXVIII.—If on the day appointed the plaintiff only shall appear, the Court, upon proof that the summons has been duly served, or that the defendant has come to the knowledge of such sum-

If the plaintiff only appear, Court may proceed ex parte.
Section XXXVIII. Bill.

* *Note.*—Partly taken from Punjab Code, Clause 4, Section 2, but with a proposed penalty on plaintiff for being allowed to continue the prosecution.

mons, shall proceed to examine the plaintiff or his agent, and after considering the allegations of the plaintiff, and any documentary or oral evidence adduced by him, may either dismiss the case, or postpone the hearing of it to a future day for the attendance of any witness the plaintiff may wish to call, or may make an ex parte decree against the defendant.

If defendant appear on a day to which the case is postponed, the Court may allow him to be heard in answer to the suit.

Section XXXIX. Bill, with a proposed penalty.

SECTION XXIX.—If the defendant shall appear on any subsequent day, to which the hearing of the suit may be adjourned, the Court may, upon his[1] *presenting a petition upon stamp paper of one-fourth the value of the institution stamp, allow him to be heard in answer to the suit as if he had appeared on the day fixed for his attendance, provided that in cases below Rs. 8 in value the petition of the defendant to be heard shall be on plain paper only, and that the value of the stamp paper, when stamp paper is used, shall not be included in the costs of the suit, or be allowed to defendant.*

[1] shewing cause to its satisfaction for not having appeared on the day first appointed, allow him to make defence. Provided. that unless the Court should specially otherwise direct, any extra cost which may have been caused to the plaintiff, in consequence of the delay of the defendant in appearing, shall be charged only to the defendant, whatever may be the result of suit.

Defendant may pay money into Court in satisfaction of the demand.

Section XLII. Clause 1, Bill.

SECTION XXX. *Clause* 1.—The defendant may pay into Court such sum of money as he shall think a full satisfaction for the demand of the plaintiff, together with the costs incurred by the plaintiff up to the time of such payment, and such sum shall be paid to the plaintiff.

Clause 2.—If the defendant deposit less than the sum claimed, and the plaintiff shall elect to proceed in the case, and ultimately recover no further sum than shall have been paid into Court, the plaintiff shall be charged with any costs incurred by the defendant in the suit after such payment.

If plaintiff elect to proceed in the case, and ultimately recover no further sum than that paid into Court, he shall be liable to the subsequent costs.
Section XLII. Clause 2, Bill.

SECTION XXXI.—No interest[1] shall be allowed to a plaintiff on any sum paid by the defendant into Court,[2] from the date of such payment, whether such sum be in full of the plaintiff's claim, or fall short thereof.

No interest on deposit.
Section XLIII. Bill.

[1] from the date of payment

[2] and tendered to the plaintiff, without prejudice to his right to continue his suit for any further claim in the same subject matter,

SECTION XXXII.—If the defendant in any case claim to set off any demand against the claim of the plaintiff, the Court shall find what amount is due to the plaintiff, and what amount, if any, is due to the defendant, and shall give judgment for the recovery of any sum which, upon such finding, shall appear due to either party.

In cases when claims are set off, Court may adjudge any sum due to either party.
Section XLV. Bill.

SECTION XXXIII.—The judgment of the Court, with respect to any demand which a defendant may claim to set off, shall have the same effect as if such sum had been claimed by the defendant in a separate action

Effect of judgment in such cases.
Section XLVI. Bill.

Judgment how to be pronounced and recorded; decree what to contain.

Section LI. Bill. Act XII. 1843. Act XXXIII. 1854. Present practice.

SECTION XXXVII.—The Court, after considering the arguments and evidence, shall pronounce judgment in open Court; such judgment shall be reduced to writing before it is delivered in the vernacular language of the Judge, and shall state the points to be decided, the decision thereon, and the reasons for the decision. It shall be signed by the Judge, and dated on the day upon which it is pronounced. The decree shall also state whether the amount of any sum adjudged is to be paid by instalments, and shall specify the dates, and amounts, for payment of instalments, with the amount of costs, other than those excepted by Section XXVII. Clause 2, and Section XXIX., incurred in the suit, and by what parties and in what proportion they are to be paid.

In suits below Rs. 400, copies of decision to be tendered to parties within a week.

Section XLI. Regulation XXIII, 1814, and present practice.

SECTION XXXVIII.—In all suits below Rs. 400 in value, two copies of the decision shall be prepared within one week upon plain paper, and having been duly attested, signed, and sealed, shall be tendered to the plaintiff and defendant, or to their authorized agents, and the date of the copies being ready, and of their actual delivery or tender, shall also be endorsed on the back of the copies and of the original decision. If either or both of the parties shall fail to attend, or shall refuse to receive

the copies, the Judge shall certify the same on the back of the copies, which shall be filed with the case.

Form of decree for personal property.
Section LII. Bill.

SECTION XXXIX.—If the decree be for the delivery of personal property, it shall state the amount of money to be paid as an alternative, if delivery cannot be had.

Interest.
Section LXVIII. Draft Bill, except as regards the limit, which I would not have. The comments on usury in the Punjab Book are in strict consonance with the principles of Political Economy, and I would adopt Clause 4. Section XIX. of the Punjab Principles.

SECTION XL.—*Interest may be awarded upon debts or other demands, at the rate which the parties may have bonâ fide agreed upon in writing, and where no such agreement exists, the Court shall fix what may appear an equitable amount with reference to the custom of the locality, the usage of trade, or the merits of the transaction.*

Court may appoint assessors.
Present practice and Clause 15. Section 11. Punjab Rules.

SECTION XLI[1].—The Court may in any case appoint a jury of assessors.

Arbitration.
Section LXXII. Draft Bill and Punjab Rules: also present practice.

SECTION XLII[2]. *Clause* 1.—The Court also may, in any case, with the consent of both parties to the suit, order the same to be referred to arbitration, in such manner and on such terms as it shall consider reasonable and just.

Clause 2.—Such reference shall not be revocable unless by

Section LXXIII. Draft Bill

[1] Section XL.

[2] Section XLI.

consent of the parties, and the award of the arbitrator or arbitrators shall be entered as the judgment in the cause, and shall be as binding and effectual to all intents as if given by the Court.

Section LXXIV. Draft Bill.

Clause 3.—An award of arbitration made under the preceding Section shall not be set aside unless on proof that it was procured by corruption or fraud, or that the arbitrators had been guilty of misconduct, by which the rights of either party were injuriously affected.

Section LXXV. Draft Bill.

Clause 4.—An application to set aside an award of arbitration on any of the grounds contained in the preceding Section shall not be received unless presented within a week from the date on which judgment was entered upon the award, and if admitted, and the objection to the award be established to the satisfaction of the Court, the Court shall *vacate*[1] the award, and may proceed to dispose of the case as if no such reference had been made.

[1] annul

[2] Section XLII.

Penalty of contempt of Court.

Section LXXVI. Draft Bill, but penalty in accordance with Punjab Code, and much the same as present practice.

SECTION XLIII[2]. *Clause* 1.—Insolent or disrespectful behaviour towards any Judge while sitting in Court, or any other conduct within the hearing or view of a Judge sitting in Court, tending to interrupt the due course of business, shall be deemed a contempt of the authority of the Court, and shall be punish-

able by fine not exceeding Rs. 100, commutable to imprisonment at the public expense in the Civil Gaol for a period not exceeding thirty days.

Clause 2.—The order of the Court shall, in such case, state the facts constituting the contempt, and such order shall be open to a summary appeal.

Section LXXVII.

[1] Section XLIII.

SECTION XLIV[1]. *Clause* 1.—The Court, or any Court to which any process may be sent for service or execution, may hear and determine cases of resistance of its process occurring within its own jurisdiction unattended with personal violence, and, on proof of the offence, may convict the offender, and adjudge him to pay a fine not exceeding Rs. 100, and in default of payment to be imprisoned for any period not exceeding thirty days in the Civil Gaol, at the public expense.

Penalty of resistance of process.
Section XXVIII. Draft Bill.

Clause 2.—If the resistance of process be attended with personal violence or other aggravating circumstances, the case may be referred by the Court to the Magistrate of the District, who shall proceed upon such reference under the rules in force.

Clause 3.—The Court, on the statement on oath[2] of any peon or other Officer resisted in the execution of the process, may summon the person accused to answer the charge, and on the failure of such person to attend, the Court, if satisfied of the

[2] or solemn affirmation

service of the summons in any one of the modes prescribed, may issue a warrant for the apprehension of the accused.

[1] Section XLIV.

SECTION XLV[1]. *Clause* 1.—Application for the execution of a decree shall be made by petition to the Court which pronounced the decree.

Execution of decrees.

Present practice; Punjab Rules.

Clause 2.—In decrees not exceeding Rs. 400 in amount or value, the petition shall be on plain paper. In decrees in which the amount or value exceed Rs. 400, the petition shall be on an eight-anna stamp.

[2] Section XLV.

SECTION XLVI[2]. *Clause* 1.—The petition shall set forth, in tabular form, the following particulars:—the number of the suit; the names of the parties; the date of the decree; the subject of decree; whether an appeal has been preferred or admitted from the decision; whether any and what adjustment of the matter in dispute[3] since[4] the decree; the specific amount due to the petitioner under the decree, whether on account of costs of suit or otherwise; the name of the individual against whom the enforcement of the decree is solicited.

Application for execution of decrees to state certain particulars in tabular form.

Present practice, which is in accordance with Circular Order Sudder Dewanny Adawlut No. 164, dated 20th August 1841 and 22nd April 1842.

[3] has taken place [4] the date of

Clause 2.—An attested copy of the decree shall also be presented with the application.

Present practice.

[1] Section XLVI.

SECTION XLVII[1].—If the Court shall award payment of any sum of money by instalments, and default be made in payment of any instalment as it falls due, execution shall issue upon the application of the decree-holder for the full amount of all the instalments remaining unpaid.

On default of payment of an instalment, execution shall issue upon application, for full amount unpaid.

Section LXXII. Bill.

[2] Section XLVII.

SECTION XLVIII[2].—Execution on a judgment shall not issue against the heir or other representative of a deceased party without notice to such heir or other representative to appear and be heard.

Execution not to issue against heir or representative of a deceased party without notice.

Section LXXIII. Bill.

[3] Section XLVIII.

SECTION XLIX[3].—If a decree be not enforced within one year from the date of judgment or from the date of the first default of payment of an instalment, if that mode of payment shall have been awarded, execution may be sued for within the periods specified below, but no warrant of execution shall issue after the lapse of a year as above stated until the defendant has been called upon by summons to shew cause why it should not be carried into effect.

Periods within which execution of decrees may be sued out.

This is in accordance with the proposed Statute of Limitation.

Upon judgments for money and costs, six years from the date of judgment or from the date of the default of payment of an instalment.

Upon judgments for real and personal property, twelve years from the date of judgment.

SECTION L.—*Any application for the execution of a judgment preferred after the expiration of the periods specified in the preceding Section, shall be by a new suit upon the judgment; such suit shall be subject to all the foregoing rules for receiving, trying, and determining complaints; but the defendant shall not be allowed to impugn the merits of the original judgment.*

After the expiration of the periods allowed for suing out execution, new suit must be brought upon the judgment.
Section C. of Draft Bill.

SECTION LI[1].—Process shall not be issued simultaneously against the person and property of a judgment debtor.

[1] Section XLIX.

Process not to issue simultaneously against person and property.
Section LXX. Bill; present practice.

SECTION LII[2].—If a warrant issue for taking in execution the body of any person, the Nazir of the Court shall cause him to be seized, and unless such person shall immediately deposit with the Officer entrusted with the service of the warrant the full amount specified therein, the Nazir shall bring him before the Court, and if such person shall not immediately deposit in Court the amount of the demand, inclusive of all costs, or shall not furnish good and sufficient security for the payment of the same, either in full or by instalments, as the Court may direct, or satisfy the Court that he has done his best to pay the same, and has no property or effects from

[2] Section L.

Warrant against the person.
Section LXXVIII. Bill.

which it can be discharged, the Court shall send him to Gaol, there to remain for such time as shall be directed by the warrant, unless he shall in the mean time pay the full amount specified therein, or furnish the security above stated. Provided that the term to be directed by the warrant shall not exceed three calendar months where the amount decreed, exclusive of costs, does not exceed Rs. 50, or six calendar months in any other case. Provided also, that if the judgment creditor should oppose the release, and can prove to the satisfaction of the Court that the judgment debtor has wilfully and fraudulently evaded payment by the concealment or transfer of property or otherwise, the Court may award a further term of imprisonment, not exceeding three or six months as the decree may be for less or for more than Rs. 50, unless the debtor shall sooner perform the order of the Court.

[1] Section LI.

SECTION LIII.[1]—The security bond taken under the preceding Section shall be in the form appended to these rules, and shall stipulate that if default shall happen in the fulfilment of the conditions of the bond, the judgment creditor may, without a fresh action, sue out execution upon such bond under the foregoing rules, in like manner as if a decree has been passed against the surety, his heirs, executors, or administrators upon such bond.

Form of security bond for payment of decree.
Section LXXIX. Bill.

[1] Section LII.

No person to be imprisoned a second time under same judgment, or his property to be liable to attachment.

Section LXXX. Bill.

SECTION LIV[1].—Any person once discharged from Jail shall not be imprisoned a second time under the same judgment, but such discharge shall not extinguish the liability of such person under the decree, or exempt any property liable to attachment in execution of the same.

[2] Section LIII.

Diet money to be deposited at the issue of the warrant.

Section LXXXI. Bill, and present practice.

SECTION LV[2].—Any person suing out process of execution against the body of any other person shall deposit with the Nazir of the Court, at the time of the issue of the warrant, diet money for one month of thirty days, after the rate of one anna per diem, unless the Court, for any special reason, in any case, direct the deposit of a higher rate, which shall not exceed four annas per diem.

[3] Section LIV.

Payment of diet money in advance during imprisonment.

Section LXXXII. Bill, and present practice.

SECTION LVI[3].—Payment of diet money at the same rate shall be made previous to the commencement of each succeeding month of the imprisonment, in failure of which the party confined shall be discharged.

[4] Section LV.

Diet money to be costs in suit.

Section LXXXIII. Bill, and present practice.

SECTION LVII[4].—All diet money spent in providing subsistence for any prisoner shall be added to the costs in the suit, and any diet money not so spent shall be

Clause 3.—*If the movable property be not of sufficient value to satisfy the decree, the Ameen or Nazir shall proceed to attach any immovable property liable to distraint under existing rules, and which may be mentioned in the plaintiff's list, and may be pointed out by him or by his agent.* As soon as the attachment has been effected, a proclamation in the current language of the country shall be issued, for at least thirty days before the appointed day of sale. The proclamation shall specify the property attached, and the time and place of proposed sale. One copy of the proclamation shall be affixed to some conspicuous part of the defendant's dwelling house or usual place of business, and another to the Court house. The purport of the proclamation shall also be announced by beat of drum in the village or town where the attachment has been made.

Clauses 8 to 15, Section V. Code, Procedure.

Clause 4.—If, within the period fixed by the proclamation, any claim be preferred to the property thus advertised for sale, or if any objection be raised against the proposed sale, such claim or objection will, in the first instance, be presented on plain paper. If the decree-holder admit the lien, then no further proceedings are required. If the lien be disputed, then a trial will be held, to be commenced by a petition on stamp paper of the value prescribed for regular claims; and upon receipt of such a petition, duly filed, the Court shall be at liberty to postpone the sale, and enter upon an investigation, and

to decide the validity of the claim or objection preferred.

Clause 5.—If the claim be proved to be frivolous, it will be dismissed with all the costs incurred in the investigation. But if it appear to be well founded, the property claimed will be released from attachment[1], exposed for sale, subject to satisfaction of the claim admitted, or proved; and the cost of the initiatory stamp, as well as all subsequent expenses incurred, will be charged to the person pressing the right to sell, or in such proportions between both parties, as shall seem to the Court fair and equitable.

[1] or when the claim may be only to a portion of such property, may, in the discretion of the Court, be

Clause 6.—Any decision, which may be passed on such claim, will be held conclusive only quoad the parties who have been before the Court. After such decision the purchaser will be put in possession of the thing sold, but no immunity can be given to property thus obtained against any just claims of absent parties.

Clause 7.—If a sale be postponed, pending the investigation of such a claim or objection, and in the event of the claim being disallowed, a second proclamation, of a term not less than ten days, shall be issued for the information only of intending purchasers, but it will not be competent to the Court to receive any fresh objections during the second term, nor at any time after the expiry of the first or original advertisement; provided that the objector be allowed to shew cause why he had not objected during the first term.

Clause 8.—On the day appointed for sale, the attached property

shall be divided into convenient lots, and each lot will be put up in succession until the amount of the decree be realized. When the decree is satisfied, the sale will immediately cease, and all property remaining unsold shall be at once released from attachment.

Clause 9.—The entire sum bid for movable property must be paid up within twenty-four hours, and the property withheld till the money is paid. A deposit of ten per cent. on the price will be required at the time of sale, and this deposit will be forfeited, and the property re-sold, unless redeemed within the period above prescribed. If at the second sale the property should fetch a lower price than the sale, then the difference shall be recoverable from the original purchaser.

Clause 10.—In the case of immovable property, other than land, the sale will be held on the premises or at the Court house, as may seem most expedient to procure a ready sale. *An upset price will be fixed at the discretion of the Court, assisted by competent assessors, and the property may be reserved or sold to the highest bidder, as the Court may decide if the upset price should not be attained.* The property will be sold in lots, so as to prevent the sacrifice of any property beyond the necessities of the decree.

Clause 11.—In sales of real property, the full amount of the purchase money should be paid within fifteen days, in default of which the deposit of ten per cent. required at the time of auction, will be forfeited, and the pro-

perty re-sold at the risk of the first purchaser. But the Court may, at its discretion, extend the term, if the value of the property should render such a course expedient.

[1] Section LXI.

Distribution of assets among several decree-holders, and what each must do to entitle him to a ratable share.

Present practice, which is in accordance with Circular Order Sudder Dewanny Adawlut, No. dated 26th November 1847.

SECTION LXIII[1].—Where there are several decree-holders claiming to share in the proceeds of sale, each claimant must take out process of attachment previous to the sale of the property to entitle him to a ratable share, and before any distribution of the assets the attaching decree-holder shall be reimbursed from them the charges which he has actually incurred.

[2] Section LXII.

Judgment how to be enforced beyond jurisdiction of Court.

Section XCV. Bill.

SECTION LXIV[2].—If a decree-holder be unable to enforce or obtain satisfaction of a judgment, by execution within the jurisdiction of the Court which pronounced the same, and be desirous of enforcing or obtaining satisfaction of such judgment by the arrest of the defendant or the seizure and sale of property in the jurisdiction of another Court, the Court, on the application of such judgment creditor, shall grant him a copy of the judgment, and a certificate of any sum remaining due under it; and on the presentation of such copy and certificate to any of the Civil Courts in these territories, such Court shall proceed to enforce such judgment according to the foregoing rules,

[1] Section LXIII.

SECTION LXV[1].—Every order and decision passed by the instance of primary instance shall be open to an appeal to the Principal Sudder Ameen of the division.

Appeal allowed in every case.
Present practice.

[2] Section LXIV.

SECTION LXVI[2].—The appeal shall be written on stamp paper *of half the value of the original institution stamp, provided that no appeal shall be on a stamp of less value than two annas.*[3] The petition of appeal shall be accompanied by an authenticated copy of the order or decision appealed against. In cases in which the claim exceeds Rs. 400 in value, the copy shall be on stamp paper of eight annas.

Mode of preferring an appeal.
Present practice.

[3] according to the value of the property to which the appeal relates.

[4] Section LXV.

SECTION LXVII[4].—The appeal must be preferred within sixty days from the date of the order or decision appealed against; but if the sixty days shall elapse whilst the Appellate Court is closed, an appeal may be admitted on the first day on which such Court reopens. Moreover, the period which may intervene between the presentation of stamped paper for a copy and the completion of the copy shall not be included in the term of sixty days.

Period within which appeal must be preferred.
Present practice.

[5] Section LXVI.

SECTION LXVIII[5].—An appeal may be admitted after the expiration of the term allowed, provided that good and sufficient cause be shown for the indulgence.

In what case an appeal may be admitted after the expiration of period specified.
Present practice.

[1] Section LXVII.

SECTION LXIX[1]. *Clause* 1.—An appeal shall be preferred by the appellant in person or by his authorized agent, and the Appellate Court shall give immediate notice to the respondent, and may, if it think necessary, summon the respondent.

By whom appeal is to be presented.
Present practice.

Clause 2.—The Court of appeal may take additional evidence in a case on appeal, or may remand it for further investigation.

Clause 3.—The Appellate Court may suspend the execution of a decree pending an appeal.

[2] Section LXVIII.

SECTION LXX[2].—No order or decision shall be reversed, altered, or remanded on account of any error, defect, or irregularity not productive of injury to either party.

Appeals to be determined by the merits, without regard to technical errors.
Act. IX. 1854.

[3] Section LXIX.

For any good and sufficient reason, to be set forth at length in the order of admission, the Civil Judge may admit a special appeal from the decision of a Principal Sudder Ameen,

SECTION LXXI[3].—*When it may appear necessary for the ends of justice in consequence of a decision being at variance with some existing law or established custom of the country, or as being in opposition to or inconsistent with some other judgment passed by a competent tribunal in the same cause of action, or in consequence of the subsequent discovery of new evidence, or any other and sufficient reason to be fully detailed on the order for its admission, that a special appeal should be admitted, such appeal,* if presented within three months from the date of the[4] decision,[5] *may be*

Grounds for a special appeal.
Present practice.

[4] first

[5] in appeal, upon stamp paper of the same value as that prescribed for regular appeals.

received by the Civil Judge upon stamp paper of the same value as that prescribed for regular appeals. It is to be distinctly understood that a second appeal is not to be received on any but the special grounds above prescribed, whether the previous decisions of the two subordinate Courts may have been concurrent or the reverse.

A. A. ROBERTS,

Civil Judge.

A.

Statement of suits decided in the Courts of Primary Instance, shewing the total value of the suits, the average value, the total costs, the average costs per cent. and per case, and the average time occupied in each Court in the decision of suits.

Name of Office.	Number of suits.	Grand total of value of the suits.	Average value of each suit.	Total costs.	Average costs per cent. to value.	Cost in each case.	Average time occupied in the disposal of each case.
							m. d.
Sud. Ameen of Jubbulpore,	1219	140275 0 0	115 1 2	5298 6 6	3 12 5	4 5 3	3 3
Ditto ditto, Sangor, ..	759	99902 0 10	131 9 11	6365 6 1	6 5 11	8 6 0	3 14
Ditto ditto, Hoshungabad,	798	75717 0 3	94 14 1	5983 9 4	7 13 10	7 8 0	5 3
Total, ...	2776	315894 1 1	113 12 1	17647 5 11	5 15 8	6 11 8	3 27
1st Class Moonsiff, Dumoh,	1149	81805 12 3	71 3 1	6809 10 6	8 0 6	5 14 9	1 4
Ditto ditto, Baitool, ..	951	46803 12 3	49 3 5	4192 1 6	8 15 3	4 6 6	2 20
Ditto ditto, Nursingpore,	882	82213 1 1	94 3 4	6518 14 3	7 14 10	7 6 3	3 0
Ditto ditto, Seonee, * ..	544	32975 6 6	60 9 10	1082 0 0	3 4 6	1 15 7	3 4
Total, ...	3526	243798 0 1	69 2 3	18602 10 3	7 8 9	5 4 4	2 14
2nd Class Moonsiff, Shahpore, ...	1257	46141 8 6	36 10 6	3725 10 9	8 1 2	2 15 0	1 7
Ditto ditto, Rehly, ...	952	37066 1 1	38 14 11	2703 12 0	7 9 0	2 13 2	1 16
Ditto ditto, Khoorye, ..	761	32992 3 10	43 5 7	3144 3 9	9 8 5	4 2 1	0 21
Ditto ditto, Jubbulpore, ..	705	39074 0 9	55 6 9	3068 15 0	7 13 7	4 5 7	1 25
Ditto ditto, Sehora, ..	559	25686 3 6	47 11 9	2691 13 0	10 7 7	4 13 0	1 18
Ditto ditto, Saugor, ..	519	22190 9 8	42 12 1	2650 0 3	11 15 1	5 1 8	1 16
Ditto ditto, Seonee, (Hoshungabad,) ..	474	29529 0 4	62 4 9	2134 10 6	7 11 2	4 8 0	2 4
Total, ...	5227	232679 11 8	44 8 2	20119 1 3	8 10 4	3 13 7	1 15
Grand Total, ...	11529	792371 12 10	68 14 0	56369 1 5	7 1 9	4 11 2	2 8

* *Note.*—An error has at the last moment been discovered in the Returns from this Moonsiffee. The total costs, exclusive of Mookhtars' fees, amount to Rs. 2,470, the per-centage of costs to 7·8, and average cost in each case to Rs. 4-8-7. The error raises the total costs to Rs. 57, 757 average per-centage of costs to Rs. 7-4-6, and costs per case to Rs. 5-0-1.

B.

Statement of the number of suits decided, their total and average values, total and average costs per cent. and per suit, distinguishing suits by the amount of claim.

Description of Suits.	2. Number of suits of each description.	3. Total value of each description of suit.	4. Average value of each suit.	5. Total costs of each description of suit.	6. Average per-centage of costs to value.	7. Average costs per suit.
1 to 25, ...	6031	73856	12 3 11	13447	18 3 0	2 3 0
25 to 50, ...	2614	94406	36 1 10	10005	10 6 0	3 13 0
50 to 100, ...	1458	100875	69 2 0	8703	8 5 0	5 15 0
100 to 200, ...	801	113203	141 2 0	6947	6 2 0	8 11 0
200 to 400, ...	394	107489	272 10 0	5807	5 6 0	14 11 0
Total up to Rs. 400, ..	11298	489829	43 6 0	44909	10 14 0	3 14 0
400 to 1000, ...	152	93180	678 12 0	4448	3 14 0	26 8 0
1000 to 5000, ...	73	143220	1961 14 0	5148	3 9 0	70 8 0
Above 5000, ...	6	66142	11023 10 0	1864	2 13 0	310 10 0
Total above Rs. 400, ..	231	302542	1352 7 0	11460	3 8 0	47 13 0
Grand Total, ...	11529	792371	68 14 0	56369	7 1 9	4 14 2

C.

Statement of Petty Suits decided by the subordinate Courts of the Jubbulpore Division, during the last six months of 1851.

Name of Court.	Description of cases.	Number of cases.	Total value of suits.	Total costs.	Average value of suits.	Average cost per case.	Average percentage of cost to value.
Sudder Ameen of Jubbulpore,	1 to 4 Rs.	58	161 13 3	89 14 0	2 12 8	1 8 2	55.5
Moonsiff of Dumoh, ...	"	17	45 12 6	36 13 6	2 14 9	2 2 3	80.4
Ditto of Jubbulpore, ...	"	12	29 10 3	30 9 6	2 8 0	2 9 4	1[illegible]3.0
Ditto of Seonee Chuparn,..	"	16	46 7 9	28 0 3	2 14 5	1 12 3	6[illegible].56
Ditto of Schora, ...	"	11	29 14 0	37 11 0	2 11 5	3 6 9	126.15
Total, ...	.. ..	114	313 9 9	224 0 3	2 12 0	1 15 3	71.62
Sudder Ameen of Jubbulpore,	4 to 8 Rs.	104	596 7 9	164 6 6	5 11 9	1 9 3	27.8
Moonsiff of Dumoh, ...	"	80	363 7 3	185[illegible]1 6	4 8 8	2 5 0	50.9
Ditto of Jubbulpore,.....	"	51	309 13 3	134 15 0	6 1 2	2 10 4	43.6
Ditto of Seonee Chuparn,..	"	37	218 13 6	76 12 0	5 14 5	2 1 1	34.72
Ditto of Schora,.....	"	24	139 1 9	81 7 0	5 12 5	3 6 3	58.58
Total, ...	.. ..	296	1627 11 6	643 4 6	5 7 11	2 2 9	39.51
Sudder Ameen of Jubbulpore,	8 to 16 Rs.	162	1970 5 6	329 6 6	12 2 2	2 0 5	16.4
Moonsiff of Dumoh, ...	"	142	1749 10 4	402 13 6	12 5 2	2 13 4	22.9
Ditto of Jubbulpore, ...	"	77	963 1 9	210 14 6	12 8 1	2 10 10	21.9
Ditto of Seonee Chupara,..	"	74	922 5 9	210 8 0	12 7 5	2 13 6	22.8
Ditto of Schora, ...	"	57	682 10 3	207 0 6	11 15 7	3 10 1	30.62
Total, ...	.. ..	512	6288 1 7	1360 11 0	12 4 6	2 10 6	21.63

Statement of such suits instituted in the Nursingpore Division, during the same period.

	1 to 4 Rs.	4 to 8 Rs.	8 to 16 Rs.
Sudder Ameen, Saugor, ...	17	45	79
Ditto ditto, Hoshungabad, ...	16	42	103
Moonsiff, Nursingpore, ...	10	65	130
Ditto, Baitool,.....	25	65	122
Ditto, Saugor,.....	8	17	51
Ditto, Khorye, ...	7	32	90
Ditto, Seonee, (Hoshungabad,) ..	11	31	85
Ditto, Rehly,.....	18	54	126
Total,.....	112	351	785

D.

Table shewing proposed fixed costs in each Class of case.

Costs.	*Where the claim does not exceed*												
	Rs. 4	Rs. 8	Rs. 16	Rs. 24	Rs. 32	Rs. 48	Rs. 64	Rs. 150	Rs. 300	Rs. 800	Rs. 1600	Rs. 3000	Rs. 5000	Above Rupees 5000
Institution stamp, ...	0 2 0	0 4 0	0 8 0	0 12 0	1 0 0	1 8 0	2 0 0	4 0 0	8 0 0	16 0 0	32 0 0	50 0 0	100 0 0	
Reply and other pleadings and applications on eight annas stamp, say five in each case above Rs. 300 in value, ...	..	..	..	..	..	..	..	..	..	2 8 0	2 8 0	2 8 0	2 8 0	
Tulubana Fund, ...	0 2 0	0 4 0	0 8 0	0 12 0	1 0 0	1 8 0	2 0 0	4 0 0	8 0 0	16 0 0	32 0 0	50 0 0	75 0 0	
Writing petition of plaint, and in cases above Rs. 300, reply and other pleadings and applications also, ...	0 1 0	0 2 0	0 3 0	0 4 0	0 5 0	0 6 0	0 7 0	0 8 0	0 12 0	4 8 0	4 8 0	4 8 0	4 8 0	Institution stamp will depend upon the value of the suit. Tulubana to be charged *in same proportion* as in preceding column, viz. three-fourths of the institution stamp.
Ditto reply or other pleading or application on plain paper. In cases below Rs. 8 no reply but that recorded by the Court to be required, ...	..	..	0 1 0	0 1 6	0 2 0	0 2 6	0 3 0	0 3 0	0 3 0	..	..	..	..	
Total costs, ...	0 5 0	0 10 0	1 4 0	1 13 6	2 7 0	3 8 6	4 10 0	8 11 0	16 15 0	39 0 0	71 0 0	107 0 0	182 0 0	
Per-centage to full claim, ...	7·81	7·81	7·81	7·68	7·61	7·35	7·32	5·79	5·64	4·87	4·43	3·56	3·64	

3.—The Lieutenant Governor has perused these documents with great satisfaction. The labor and intelligence with which you have compiled the Rules, so as to provide a procedure which shall be uniform, simple, and prompt, for all species of cases, have been judiciously employed, and the result is in a high degree creditable to you, and will, the Lieutenant Governor is persuaded, be of much practical utility.

4.—The rules as recommended, and as now passed with the modifications to be noticed, and the explanatory sketch and appendices, will be printed and circulated for general information.

5.—Before proceeding to discuss in detail the provisions of the code, I am directed to communicate the opinion of the Lieutenant Governor on the principles upon which stamp and tulubana charges should correctly be imposed.

6.—There is an essential difference in the nature of these two charges. The stamp is a discretionary tax imposed by the Government, in order to defray the costs of the Courts, and perhaps also to secure some indirectly beneficial effect in checking needless litigation. It is open to the Government to adjust this tax as may appear to it most expedient, and so as least to be felt by the poorer classes of litigants. You have shown that the costs of our Courts in Saugor press with great severity upon suitors for small claims. His Honor therefore quite approves the proposal made by you for lowering the scale of stamps in small suits.

7.—But tulubana is the expense actually incurred by the Government in serving a process of arrest or summons. It is the price of a service performed; and the cost necessarily incurred for the object, is in the reason of the case, fairly to be charged as a necessary part of the costs arising in the cause. The expense to the Government of issuing a process upon a witness or defendant is, of course, greater in proportion to the distance, and, in like manner with the greater cost which must be incurred for the subsistence of witnesses brought from a distance, is one which is incidental to the position of a party involved in a suit, and from which, in neither of the two kinds of cases, can he claim exemption at the expense of parties in other suits. The Government is bound to provide as many and as generally accessible Courts for all sections of the country as the public means will admit. But the distance at which these Courts must still remain situated from the homes of different litigants is an unavoidable disadvantage of position, from which there are not the just means of providing relief.

8.—The Lieutenant Governor is of opinion that the most convenient rule of establishing a scale of tulubana will be to divide the jurisdiction of each Court into three circles or bands: the first within a radius of 15 to 20 miles, the second from the limit so fixed (or above one day's journey) to 40, and the third beyond 40 miles. For each circle an appropriate scale of tulubana should be laid down. A fixed amount might be suitable for the first of these circles, and it might be open to consideration whether, for the second and third, there should be a fixed sum, or a moderate mileage rate.

9.—You will have the goodness to propose a scale of tuitions regulated as above explained.

10.—In reference to the scale of stamps on institution of suit, I am directed to state that the Lieutenant Governor approves generally of the principle indicated in your 117th paragraph. Up to suits for Rs. 50, His Honor is prepared, as far as possible, to lessen this burthen, as upon suits of this description you have clearly shown that the total costs are disproportionately heavy. The scale noted in the margin* is that which His Honor approves. For suits above Rs. 50 the Lieutenant Governor suggests that the full rates prescribed in Regulation X. of 1829 be adopted, both as regards the institution stamp and the stamps required for exhibits. There does not appear to be any sufficient reason at this time for continuing a generally reduced rate of stamps for all classes of suits in the Saugor districts. Indeed, it may be proper to introduce the full rate of the Regulation on bonds and obligations within the Territory, as well as on legal pleadings and exhibits. On this point your opinion is invited.

*Not exceeding	4 Rs. ..	2 Ans.	
" "	8 " ..	4 "	
" "	25 " ..	8 "	
" "	50 " ..	12 "	

11.—The jurisdiction of some of the primary Courts is of very great extent, as in the cases referred to in the 37th and following paragraphs of your report. And in certain instances, from the nature of the country, it may not be possible, by alteration of limits, or the constitution of new Moonsiffees, to arrange the site of the Courts so as to bring them within a reasonable distance of different portions of their charge. Wherever this state of things may be found, it occurs to the Lieutenant Governor that it would be expedient to erect a second Court-house in a convenient and easily accessible position within the remoter parts of the tract. The Moonsiff might then be deputed periodically to hold his Court in such locality, and thus bring justice within easy reach of the inhabitants. The Government would be prepared to pay a deputation allowance to cover the expense of this measure both to the Moonsiff and his Amla.

12.—I now proceed to communicate the observations of the Lieutenant Governor on the rules proposed by you *seriatim*.

SECTION I. *Clause* 1.—Looking to the higher scale of salary received by the Moonsiffs in the Saugor Judgeship than elsewhere, and to the small number of suits between Rs. 400 and Rs. 1,000, (shown to amount in 1851 only to 15 cases throughout the Territories,) the Lieutenant Governor has resolved, as you are aware from my separate reply to your annual report, to confer jurisdiction up to Rs. 1,000 upon all the 2nd Class Moonsiffs. This clause has been modified accordingly.

SECTION II.—The period of limitation for debts on bond is fixed at six years.

SECTIONS IX.—XII.—The corresponding provisions of Rules XII. and XIII. *Section* 5, for the guidance of the Revenue Courts in Saugor in the trial of Civil suits have been substituted for these. The principle of leaving it to the discretion of the Court to issue a warrant for the arrest of the defendant, with the proviso that no person shall be arrested who delivers to the party

charged with the warrant a declaration in writing, that he is willing the case should be tried *ex parte*, has been adopted both in the Saugor and Kumaon rules after mature deliberation and discussion, and being already in force in the Saugor Territory in suits connected with land, may the more appropriately be adopted in the form in which it stands as one of the rules of the Civil Courts.

SECTION XXI.—The provisions of Act XIX. 1853, the whole of Sections 13, 14, and 15, and part of 21 and 27, (with such modifications as were needed to adapt them to the permission given by the rules to serve a summons to give evidence in like manner as a summons for the appearance of a defendant,) have been inserted for the summoning of witnesses, and for the issue of a proclamation and the attachment of property, where the Court may deem the evidence of the witness material.

SECTION XXV.—An addition has been made to this Section, providing that if a party deputes an agent to appear in Court in his stead, he shall be bound by the evidence and admission of such agent in the same manner as if they had been his own.

SECTION XL. has been struck out, as the provisions of the new Usury Laws* are applicable to all parts of India.

SECTION L. renders it necessary to bring a new suit upon the merits, in order to secure execution after the periods prescribed for ordinary execution have lapsed. In theory it has been held that there is no limitation to the force of a decree. In the practice, however, of this country, limitation has been applied to the execution of decrees as well as to the adjudication of claims; and there appears to be good reason, in the circumstances of the country, for not disturbing the practice. If, however, the execution of a decree, after the period of limitation has elapsed, were admissible, there would be no occasion for requiring the institution of a new suit in order to make good the claim.

SECTION LXII. *Clause* 10.—The provision for fixing an upset price before the sale of immovable property has been struck out, as it would impose upon the Courts a duty for which they are scarcely competent.

SECTION LXVI.—The principle, as before explained, having been adopted, that much leniency is allowed in fixing the institution stamp in cases of small amount, there appears to be no reason why the full institution stamp should not be required in appeal.

SECTION LXXI.—The power of allowing *any good and sufficient reason* for the admission of a special appeal being provided by the terms of the Section, and necessarily, as is understood, exercised in the fixed practice of your Court, it is thought best to avoid an enumeration of particulars, which are in fact not restrictive. The safeguard is retained that the reason, if held to be sufficient, is to be set forth at length on the appeal.

13.—The modifications have been in all cases entered marginally in red ink; those which are merely verbal, or of minor importance, need not be here recapitulated.

* Act XXVIII. of 1855.

14.—You are authorized to bring the rules, as now approved by His Honor, into immediate operation, with a provisional table of tulubana, according to the principle which has been laid down. It does not appear necessary to delay the passing of the rules till the details of the tulubana rates have been submitted to Government. Any modifications of these can, with due notice, be introduced hereafter.

15.—On the subject of the employment of pleaders I am desired to refer to paragraph 222, page 76, of the 2nd Punjab Report, as laying down the principle upon which professional agents should be treated. The Lieutenant Governor has strong hopes that the system now approved will be found by the people to be so simple and easy that they will themselves be able to apply it, and in all ordinary concerns conduct their own litigation.

16.—The Lieutenant Governor also confidently expects that a far greater celerity will be obtained than has hitherto been known in the disposal of suits. In the Punjab, where the Tehseeldars have all species of cases to adjudicate, and are overburdened with many descriptions of pressing business, an average period of twenty-five days is deemed to be too long. In the jurisdiction presided over by you, where the Civil Judges are at present relieved from the trial of most cases connected with land, and the rent of land, and have their duties mainly confined to actions for personal debt or damage, there is obviously fair ground for the anticipation that the time occupied by suits will be brought down to a much lower average.

"I fear, however, that this would be insufficient to raise the present very low character of the shroffeadders of this district. Without a remuneration of at least Rs. 2-8-0 a month, besides the usual minor perquisites,* it is not probable that men of a better class than those who now hold the office will be found willing to accept it. At present the shroffeadders are almost without exception of the Pasee caste, and it is by men of this caste that almost all the thefts and burglaries which take place in this district are perpetrated. The shroffeadders themselves often assist in the crime, and are still more prone to its commission.

"The dismissal of a shroffeadder under present circumstances, even if accompanied with a short term of imprisonment, does not appear to be much dreaded as a penalty for neglect or connivance. It would be otherwise if the amount of remuneration were higher and more certain, and this would also procure the services of a different and better class of men.

"I would propose, then, in the first place, that authority be given to commute the jaghears granted as sandament for a monthly sum of Rs. 2, to be paid by the zemindars to the shroffeadders, wherever both parties can be brought to consent to the change. In the second place, I think that this monthly salary, if it should be thought, as it certainly is, to be too low, should be raised to Rs. 2-8-0 at the expense of Government."

This paragraph is at Board's letter of 14th August 1840, Appendix D.

Connected with the case of rural Police, Mr. Thornton notes some curious instances of rural Police having been introduced and paid for by the inhabitants of certain villages by means of a cess levied amongst themselves, constituting in fact a voluntary introduction of the provisions of Regulation XXII. of 1816. As these remarks are well worthy of perusal, they are subjoined, and will be found in Appendix E.

In forwarding Mr. Thornton's report to Government, Mr. Bowlby, the Commissioner, also advocated money payments. (Vide Appendix E.)

I must not here omit to mention, that Mr. Thornton threw out a suggestion that the rural Police should be paid for out of the surplus Ferry Funds, and Mr. Bowlby following him here also, quoted the Regulation expressly bearing on the point. These suggestions have since been met by the Government Notification of the 12th September 1853. The late Lieutenant Governor, however, did not approve of the arguments brought forward by Mr. Thornton in favor of money payments, and in a letter under date the 19th October 1844, No. 4321, Appendix E., refers back to the Board's letter of the 14th of August 1840, (from which extracts have already been given in Appendix D.,) as expressing his own views. This letter to the Commissioner of Allahabad, embodying the Lieutenant Governor's sentiments on the question, was circulated to all Commissioners of Divisions.

Mr. Muir, who succeeded Mr. Thornton, was therefore directed to carry out these orders, which he did; and on the 1st of December 1845 made his

* Now Mr. Thornton is in variance with the Resolution, which deprecates the levying of any perquisites.

report. The number of watchmen determined on at the revision of settlement was 215. Mr. Muir increased the number to 370,—a measure which involved the alteration from the rent-roll of the district of 590 acres of land, bearing an assessment of Rs. 1,779, to which sanction was accorded. The average number of houses to each chowkeedar was fifty-eight.

GORUCKPORE.—We now come to the district of Gorruckpore, and the first notice on record of the village police is in the Commissioner's Police Report of 1841, in paragraph 18 of which, under the head of watch and ward establishment, he thus writes:—

"This heading occupies paragraph 20 of Mr. Reade's memorandum, and is treated more at large in a separate note respecting village chowkeedars, to which I would respectfully beg the attention of His Honor. Mr. Tucker takes a different view of the question, and is evidently not prepared to carry out the measure in the spirit of his predecessor's scheme. For my own part, I can only say that something must be done to supply a deficiency which every day makes more palpable. It appears to me that the principle contended for by Mr. Reade can only be held to apply to large bazars and hauts, which have sprung up in consequence of the settlement, and that in all other towns and villages, the lands of which were brought under assessment, with reference to assets, any augmentation of the village Police which may be considered necessary, must be provided for on the principle laid down in the correspondence with the Commissioner of the Allahabad Division, under date 19th October last, No. 4622, which accompanied your Circular of the same number and date. The decision of Government on the point at issue between Messrs. Reade and Tucker is solicited."

[It is much to be regretted that the two memoranda of Messrs. Reade and Tucker, to which the Commissioner makes allusion, and which were respectively Appendices F. and A. of his report, were not brought on record, but some slight insight into Mr. Reade's system (which it may be remarked was afterwards abolished by Mr. Tucker, who succeeded him, with the Commissioner's consent) may be obtained from paragraphs 2 and 3 of the Commissioner's letter to Government No. 11, of 12th February 1846.]

"The necessity for some such measure (alluding to that laid down in the letter to the Commissioner of Allahabad, above quoted) is admitted, and has been practically enforced for some years in certain parts of the district. Mr. Reade's plan is, however, opposed in principle to what Government has declared to be just and proper, when, owing to the inadequacy of the provision made at the time of re-settlement of the land Revenue, an increase in rural Police may afterwards become absolutely necessary. It is accordingly part of Mr. Tucker's proposal, that the cess of Rs. 3 per month for the support of chowkeedars, levied by order of his predecessor on his own authority, should be discontinued; and in the propriety of this I fully concur."

"Another part of Mr. Reade's system was the establishment of a body of superior village Police officers for purposes of supervision and control, and to these he had assigned jagheers of ten beegahs each, with

district to propose certain half measures (such as payments in grain, &c.) which the Board recommended for sanction as not the best in theory, but as the best suited for the peculiar circumstances of the Dhoon.

DEHLIE.—Mr. John Lawrence when settling part of this district made arrangements for the village Police at the following rates; three rupees per mensem for the chowkeedar, and one for the reporter. He mentions that the zemindars made great objections to the money payments,—a fact which he is inclined, and I think with good reason, to attribute to the chowkeedars never having received their proper dues under the jagheer system.

Mr. Martin Gubbins describes a curious system of mutual watch and ward which the inhabitants of certain villages had got up in that district, and which he would appear to have left intact.

Extracts from the settlement reports of these officers will be found in Appendix K.

ALLAHABAD.—Mr. Montgomery when settling this district gave the chowkeedars jagheers, but he at the same time strongly protested in favor of a payment in money, and quoted the fact of a Mr. Sanders, a landholder in that district, having voluntarily arranged for the Police of his villages in this last manner. (*Vide* Appendix L.)

any allowances.—In Mr. S. Wright's settlement of this district, as revised by Mr. must be provided payments were also made for the village Police. (*Vide* Appen-the Commissioner

No. 4622, which ad A proposal from the Commissioner of the Rohilcund The decision of G t an omission of the settlement officer, in not making ade-Tucker is solicited r the rural Police in that district, save in the pergunnahs of

[It is much sunpore, was approved in orders of the 30th August 1851, and Tucker, to w m the letter to the Commissioner of Allahabad was sent to pectively Appen asure should be carried out.

some slight insi n the settlement of Serae Mohee-ood-deenpore, a maafee estate in pergunnah Secundra, zillah Allahabad, was proposed by the Board for sanction, the Government, in paragraph 4 of their reply No. 3200, of the 13th July 1854, directed that in lieu of an allotment of land for the chowkeedars, a money allowance of three rupees per mensem should be provided, and the Lieutenant Governor took the opportunity of requesting that the Board would make similar arrangements for the remuneration of chowkeedars in all future settlements.

I have now endeavoured to show (I would hope with some success) the history of the remuneration of the rural Police in these provinces. The wise and judicious principles laid down by Lord Auckland, in the Resolution he recorded on the subject, were ignored by the Board barely a month after their promulgation, and Mr. Grant's efforts to procure the revision of the rural Police of his district met with a cold repulse.

The late Lieutenant Governor was much opposed to the system of money payments, as may be seen on a reference to his letter to the Commissioner of Allahabad, under date the 19th October 1844. We may affirm, with good

From H. M. ELLIOT, Esq., *Secretary to the Sudder Board of Revenue, North Western Provinces, to the* COMMISSIONERS OF REVENUE, *1st to 5th Divisions, Delhi, Sangor, and Kumaon; Circular No. 1, dated Allahabad, the 21st February 1840.*

Revenue. Circular instructions regarding the remuneration of village Police.

The following instructions regarding the remuneration of village Police are issued for the guidance of the officers employed on settlement duty in your Division:—

2.—In districts where the settlement is now in progress, you should cause the Magistrate to inform the settlement officer whether the Police are to be provided for in land or money, and what number of individuals is to be provided for in each village.

3.—On receiving the information, the settlement officer must assign three acres of average good land to each chowkeedar, and one acre to each bullahar, if the subsistence is ordered to be given in land; and three rupees a month to each chowkeedar, and one rupee a month to each bullahar, if the subsistence is to be given in money.

4.—In the former case the settlement officer will cause a statement of the numbers assigned to the fields in the field-map and khusrah to be furnished to the Magistrate.

From R. N. C. HAMILTON, Esq., *Secretary to the Government, North Western Provinces, to* H. M. ELLIOT, Esq., *Secretary to the Sudder Board of Revenue, North Western Provinces, Allahabad; No. 375 of 1840, dated Camp, the 7th March 1840.*

Revenue Department.

In reply to your predecessor's letter No. 59, dated the 21st February, forwarding Circular No. 1, respecting the remuneration of the village watchmen, I am desired by the Hon'ble the Lieutenant Governor to observe that the proposed instructions have reference only to districts where the settlement is now in progress, and that His Honor anxiously awaits a report of the measures adopted by the Board to give effect to the first part of paragraph 8 of the Resolution, which refers to the rectifying of any omission to provide adequate maintenance for the village Police, which may have occurred in districts in which the settlement has been completed.

APPENDIX D.

EXTRACT *(paragraphs 6 to 39) of a letter from the* SECRETARY TO THE SUDDER BOARD OF REVENUE, *North Western Provinces, to the address of the* SECRETARY TO GOVERNMENT, *North Western Provinces, dated the 14th August 1840, No. 322.*

6.—The Board, however, desire me to take this opportunity of reporting on the general subject of paragraph 8 of the Resolution of Government, appended to Mr. Officiating Secretary Davidson's letter of the 10th January last, No. 38.

7.—A provision for the village Police, such as is here exhibited,—being partly in land, and partly in money, the fields being recorded, and the mode of levying the money allowance also entered in the proceedings of settlement,—it is always in the power of the Magistrate to secure to the chowkeedars.

8.—In the fields, of course, the Magistrate can always maintain the chowkeedar's possession; and as regards the money, if measures be taken to ascertain at half-yearly intervals that the gorait has received his allowance, or, if he have not received it, if the Magistrate enforce the payment of it up to that date, and some attention be given by the European Officer for a few years to see that goraits are paid, they will soon learn to know and assert their own rights.

9.—And this was all, I am directed to state, which the Member of the Board who was present at the meeting held at Agra meant to undertake and see carried through in the districts which have already been settled.

10.—It must be known to His Honor that the usual remuneration of a gorait consists of a certain portion of land, and of certain dues, levied, partly in grain and partly in money, at stated times, from the inhabitants of the village; and of fees on some special occasions.

11.—The Board found, on an extensive inquiry, that the average admitted land allowance of a gorait is five pucca beegahs, or about three acres; and therefore they fixed that amount of good land, or its equivalent, as what it was their duty as Revenue Officers to assign.

12.—This claim being generally admitted, the Board will find no difficulty in seeing each chowkeedar confirmed in a portion of five pucca beegahs of land, and in having a record made of the amount of his money or grain allowances, and the mode and time of levying them.

13.—The Board also believe that when the record is made, it would not be a very difficult thing to commute the whole of these allowances for a monthly payment of 3. Rs.

14.—The Board, moreover, never supposed that more would be required than to make these arrangements for the goraits now and hitherto actually appointed, and serving in the different districts.

15.—But, as His Honor will observe from the letters of the Magistrate of Dehlie, which are herewith forwarded, the views of some Magistrates go very far indeed beyond what the Board supposed to have been intended.

16.—The Magistrate of Dehlie proposes to appoint, or at least to reckon, a chowkeedar for every thirty houses, and levy for each such chowkeedar 36 Rs. per annum, to be paid by the Collector to the Magistrate; and that the Magistrate is to have a discretion either to entertain this full number of chowkeedars, or a smaller number; and in the latter case to pay back to the zemindars, as a kind of reward, the surplus beyond what may have been actually expended as wages of watchmen. The Magistrate states this to be the law; his first demands went beyond this, but this is his ultimatum.

17.—Now His Honor will see that to carry any such scheme as this, where the settlements have been completed, and the engagements exchanged, is impossible.

18.—But the policy of such a proceeding, or any proceeding resembling this, where the settlements have not been completed, would be, in the Board's view, very questionable.

19.—The Police land is properly a minhaee, or deduction from the juma: it is left unassessed, and given over to the gorait.

20.—This is a joint payment between Government and the Zemindar, the Government surrendering its revenue, and the zemindar his rent. The other dues are paid by the inhabitants.

21.—Thus every party interested in the gorait's services defrays a portion of his allowances. All are, also, by the understood common law, bound to aid him in resistance to, or pursuit of, criminals, whenever required. This is the customary law and Police of the country.

22.—If these payments be commuted for a regular money payment of 3 Rs. per mensem, it will be done by making over all these dues to the zemindar, who will collect them on his own account, and in lieu furnish the money payment.

23.—As it is less troublesome to the Magistrate to enforce realization of a fixed money payment, this latter mode, the Board observe, may have its advantages, though it departs from the constitutional practice of the country.

24.—But if a large additional number of watchmen is to be appointed, and paid by monthly salaries in money, two considerations must be attended to.

25.—*First.* That such a measure cannot be introduced where the settlements are already made; because, after the compact with the people, fixing all they have to pay, has been completed, we cannot introduce a fresh demand; consequently, if it be thought requisite to increase the village Police force where the settlements have been finished, the pay must be provided for by a reduction in the receipts of Government, not by an increase on the demands from the people.

26.—*Secondly.* Where an increase upon the existing village Police force is established, although the settlement be not completed, (and therefore it is open

to Government to adopt any measures which it may deem fit,) the additional charge will in reality be a deduction from the juma of Government.

27.—His Honor will perceive that the Magistrate of Dehlie in reality asserts this,* though he puts it in a different form. He tells the Settlement Officer that the zemindars could have well afforded to pay the demand, if they had not been over-assessed; which he subsequently explains by saying that he considers the district over-assessed, unless there have been reserved the means of maintaining an efficient Police, *i. e.*, according to his (the Magistrate's) view of an efficient Police.

28.—But it needs no argument to prove that when the zemindar and the inhabitants have been charged, the one in rent, and the other in grain or money, what according to usage they are bound to pay, any further payment must be in reality a deduction from the Revenue of Government, or a diminution of the amount which would otherwise be paid as Revenue; and can come from no other source.

29.—It then becomes a question, first, whether it is better that a Police force, the expense of which is to fall wholly upon Government, is best raised and appointed in this way; or whether Government might not for the same cost have a better Police. Secondly, whether it is expedient that Government should put out of its own hands the control of so large an amount of expenditure. But this, I am directed to remark, is done if it be left to every Magistrate to fix the extent, and consequently the expense to Government, of the establishment, without check, or any fixed rule laid down, and not bound by former usage.

30.—The Board would therefore desire to receive more precise instructions from Government; first, as to whether it was intended, in the districts already settled, to do more than secure the customary provision for the existing Police, or to commute that to a money payment, giving up the dues to the zemindar in lieu thereof; secondly, as to the extent to which the Board are to admit deductions from the Government juma for the purpose of paying the village Police in districts not settled.

31.—In order to obviate any possibility of misapprehending the Board's meaning, I am desired to give a specimen of the effect upon the Government juma of increasing the village Police establishment.

32.—Suppose the lands of a mouzah to yield a juma of 1,006 Rs. on the entire area, and that three acres are then set apart for the gorait; say the Revenue rate on these three acres is 2 Rs. per acre. The Government then has given up 6 Rs., the zemindar 4 Rs. in rent, and the remaining sum, equal to 20 or 30 Rs. a year, will be paid by various dues levied in the course of the year from the people.

33.—The juma of Government will be 1,000 Rs., but if the Magistrate should further require, perhaps to watch the high-road, three more chowkeedars,

* End of paragraph 5 of letter to Assistant Commissioner revising Settlements, No.

April 1840.

to be paid wages at 3 Rs. a month each, this will amount to 108 Rs. per annum.

34.—It is clear this amount can only come from the juma, which will be 892 Rs. per annum, instead of a thousand. In other words, the agreement will be taken for 1,000 Rs., which will be stated as follows:—

Police. Revenue.

108 + 892 = 1,000.

35.—The question, then, is whether Government might not employ the aggregate of the sums thus raised to better purpose, by expending it, on a well-considered plan, from the Treasury? Whether it might not get a better article for its money? And whether it is any thing more than a fallacy to intercept this sum before it reaches the Treasury, instead of paying it out afterwards?

36.—His Honor will observe that Mr. Tayler, the officer revising settlements, in the 3rd paragraph of his letter to the Magistrate, dated 22nd April last, states that the expense of such an establishment as Mr. Grant proposes would exceed 39,000 Rs. in the district of Dehlie Proper, which pays a juma of 3,83,835 Rs., that is, more than 10 per cent. The Magistrate's calculation reduces it to 24,000 Rs. and upwards; any way, the sum is a very large one.

37.—The idea of this sum being paid over to the Magistrate, to be by him expended or refunded to the malgoozars according to their conduct, the Board need not dwell on.

38.—The Board further desire me to observe that in some villages of Dehlie particularly, the communities, instead of paying a chowkeedar, charge themselves with the Police duties.

39.—The Board would suppose this arrangement to be as likely to secure a good village Police as any other, and would merely propose that, where the people declare their preference to this course, an entry be made in the paper of village rules,* distinctly declaring what they are bound to do, and consenting to a fine by the Magistrate if any of the conditions are neglected. They desire, however, to receive the orders of Government on this point also.

From C. GRANT, ESQ., *Magistrate of Dehlie, to* T. T. METCALFE, ESQ., *Commissioner of Dehlie; No.* 89 *of* 1840, *dated Dehlie, the* 27*th May* 1840.

WITH reference to your letter of the 10th ultimo, No. 1043, with enclosure, I have now the honor to submit the correspondence which has passed between the Settlement Officer and myself regarding the chowkeedaree tax.

2.—In my letter of the 18th ultimo, No. 99, I endeavoured to demonstrate that the objections urged by Mr. Tayler in his letters of the 8th and 13th

* As for instance;—a daily report shall be furnished to the Thanna; any instance of theft, robbery, murder, or other serious crime, shall be reported to the Thanna within — hours of its occurrence; any stolen or plundered property, brought into the village, shall be carried to the Thanna; any trace of thieves passing through the village shall be followed up, &c. &c.; on breach of any of these conditions, I bind myself to pay such fine as the Magistrate may inflict.

are to call that which has no method or proportion a system, supports one chowkeedar for every 25 houses. How, then, can such a state of things as this be allowed to remain, while we report to Government that the instructions conveyed in the Resolution have been fairly considered, and honestly acted up to?

7.—Mr. Tayler would appear to think that over-assessment cannot take place except when a village is left without the means of paying its revenue. Now the over-assessment which I allude to is of another kind. When a sufficient allowance in grain, land, or money, has not been set apart for the support of the village Police, the assessment must be considered excessive; when the Settlement Officer has set apart a sufficient quantity of land for the support of the chowkeedars, or, in making his calculation of the capability of the different villages, has left the zemindars with the means of meeting the Police expenses to which they are liable on account of chowkeedars, &c., there can be no necessity for making any deduction from the juma fixed, for it is better for the zemindars that they should pay the tax through the Tehseeldars, than that they should be continually harassed by demands on the part of the Police; unless, indeed, they look to defrauding the chowkeedars of their just reward, or imposing on the Government by keeping no chowkeedars. When a sufficient quantity of land has not, through mistake, been set apart, or means left with the zemindars to meet the chowkeedaree tax, a fresh or revised provision must be made. The Government juma will suffer equally whether a certain quantity of land be withdrawn from the assets of the estate, or a remission of the excessive juma be allowed. If sufficient provision be not made, the revenue is, for the time, increased at the expense of the Police, but in the end must suffer, owing to the prejudicial effect which insecurity of life and property must always exercise on industry, wealth, capital, and all the other true sources of a wholesome revenue. When sufficient land has been set apart for the chowkeedars, this land can be made over to the villagers, and they can pay the tax from its proceeds.

8.—Under the above circumstances and explanation, I trust you will acquit me of having proposed any thing which can be considered inexpedient or illegal, and I hope I have shown that the mode of levying the chowkeedaree tax proposed by me is equable, and in strict conformity to the letter and spirit of the Resolution of Government.

From C. GRANT, ESQ., *Magistrate of Dehlie, to* J. H. TAYLER, ESQ., *Assistant Commissioner Revising Settlement, Dehlie; No.* 46 *of* 1840, *dated Dehlie, the* 10*th March* 1840.

WITH reference to the accompanying copy of a letter from the Commissioner, I have the honor to subjoin the information necessary relative to the extent of Police, and the nature of the provision to be made for their maintenance.

All villages should be obliged to maintain chowkeedars at the rate of one to every thirty houses or families, and these chowkeedars should have a fixed

money allowance of Rs. 4 per mensem. The fund from which this expense is to be defrayed should be collected *in advance*, and made over to the Magistrate, who will see that it is regularly paid to the chowkeedars, but who will retain the power of returning any portion of it to the villages, in cases where the good conduct of the people, or other cause, renders the maintenance of the full number of the Police unnecessary. The whole amount, however, should be realized.

The provision of the bullahur should also be in money.

From J. H. TAYLER, ESQ., *Assistant Commissioner Revising Settlement, Dehlie, to* C. GRANT, ESQ., *Collector of Dehlie; No.* 9 *of* 1840, *dated Dehlie, the* 20*th March* 1840.

I HAVE the honor to acknowledge your letter No. 46, dated 10th instant, and to observe that the orders of the Sudder Board of Revenue contained in their Circular No. 1, dated 21st ultimo, limit the amount of money subsistence to be assigned to village chowkeedars to Rs. 3, and that to be given to bullahurs to one rupee, a month each; and if you see no objection, I shall make arrangements in pursuance of these instructions, it not being in my power to assign Rs. 4 per mensem to each chowkeedar.

From C. GRANT, ESQ., *Magistrate of Dehlie, to* J. H. TAYLER, ESQ., *Assistant Commissioner Revising Settlement, Dehlie; No.* 76 *of* 1840, *dated Dehlie, the* 4*th April* 1840.

I HAVE the honor to acknowledge your letter of the 20th ultimo, No. 9, and to request that you will fix the amount of money subsistence to chowkeedars at Rs. 3 per mensem, and that of bullahurs at one rupee.

From J. H. TAYLER, ESQ., *Assistant Commissioner Revising Settlement, to* C. GRANT, ESQ., *Collector of Dehlie; No.* 58 *of* 1840, *dated Dehlie, the* 13*th April* 1840.

ADVERTING to the Commissioner's letter to you,* regarding the village Police, and one to myself directing me to communicate with you on the subject, I have the honor to submit a few remarks in addition to those which you have read, I believe, in my letter to Mr. Metcalfe.†

* No. 1043, dated 10th instant.

† No. 43, dated 8th instant.

2.—The settlement of both your pergunnahs has been made and reported, and the provision for the village Police made by me is similar to what has been in other pergunnahs of other divisions; namely, where chowkeedars did exist, they have been continued on the same mode of remuneration that had prevailed immemorially in the different co

the settlement statement No. 6, *i. e.* the Police statement of the pergunnahs noted in the margin,* and I find that a uniformity of system in any one respect, whether as to the number of chowkeedars in relation to the communities, or the mode of paying them, has not been observed. In all the settled mehals the chowkeedar is paid partly in money and partly in grain, and a number of villages unable to pay in either way are watched in the night by the proprietors or cultivators themselves.

* *Pergunnahs.*
Kurkowda.
Gohannah.
Panecput.
Bangor.

3.—This being the case in mehals which have been settled in other divisions, and this being precisely the case in your own, I do not see what can be done now to introduce a new system, however desirable.

4.—The Board proposed (after your district was settled) the assignment of a specific quantity of land to each chowkeedar. Such an assignment might be acceptable to chowkeedars, who do practise cultivation; but were this universally the case, the difficulty would still remain as to *whose lands were to be taken from them and given to the chowkeedars.* So this plan failed where the instructions arrived in time.

5.—Your plan is a fixed monthly money allowance of Rs. 3 to each chowkeedar, at the rate of one chowkeedar to thirty houses. This again, for the reasons I have stated in my letter, is now impracticable.

6.—The practice of levying on the village the value of the property proved to be stolen within its boundary, or from under the protection of its chowkeedars, though opposed to the usage of more civilized society, has been advocated by men of great experience in this territory, and if still enforced, might lessen the necessity for an untried system.

My ability to assist your views has ceased with the work assigned me, and now correction of my own errors is all that occupies me.

From C. GRANT, ESQ., *Magistrate of Dehlie, to* J. H. TAYLER, ESQ., *Assistant Commissioner Revising Settlement; No.* 99 *of* 1840, *dated Dehlie, the* 18*th April* 1840.

IN reply to your letter of the 13th instant, No. 58, and with reference to your letter to the Commissioner No. 43, of the 8th instant, I have the honor to make the following observations:—

2.—In your letter to the Commissioner you say, in alluding to a letter of mine,—"If the arrangements he suggests are attempted to be introduced"; and in your letter under acknowledgment, in the 4th paragraph, you say "your plan is a fixed money allowance of Rs. 3 to each chowkeedar, at the rate of one chowkeedar to thirty houses;" now though I approve highly of a fixed money allowance or chowkeedaree tax based on population, I cannot take to myself the credit of a plan which has been drawn up by the Governor General, after long and mature deliberation and consultation with some of the most

experienced and ablest Revenue and Judicial officers in these provinces. For a full elucidation of His Lordship's views and the views of the officers who were consulted, "I beg to refer you to the Resolution which accompanied Mr. Secretary Davidson's letter (Circular) of the 10th January last, No. 66, and I would particularly request your attention to the first, second, third, sixth, seventh, eighth, and ninth paragraphs, from which you will see that all the objections advanced by you to the tax proposed have been over-ruled, and that I have advanced nothing new beyond a suggestion that the money should be paid in advance; but this I now withdraw, lest it should prove an impediment to your proceedings.

3.—You lay great stress on engagements having been entered into, and acted upon for the last three fusls, and you conclude your letter with the words "revenue arrangements which *have been completed.*" The Settlement Office was under my charge only a few weeks ago, and then I certainly did not consider the settlements concluded; and the Commissioner, in his letter to me forwarding your objections, and in alluding to the state of the settlement in the Northern pergunnah, speaks of the settlement being already in part confirmed by superior authority; and with regard to the Southern pergunnah, he distinctly says the "proceedings have not been reported." However, allowing your settlement to be complete, let us see whether you are borne out in saying that "the Board seem to have been aware of the difficulty of making such arrangements in mehals already settled, and distinctly limit their instructions to *disjicts where the settlement is now in progress.*" If your reading of the Board's intentions be correct, why did the Commissioner direct me to "supply the Settlement Officer with the necessary information relative to the extent of Police in each c825, and whether the provision of their maintenance and that of the bullah[illegible] to be assigned in land or money;" and why did you write to me your letter of the 20th ultimo, No. 9, in which you say that if I have no objection, you will make arrangements in pursuance of the instructions of the Sudder Board, contained in their Circular of the 21st February, No. 1, which fix the money subsistence to be assigned to chowkeedars at Rs. 3 each? But further, let us refer to the Resolution of Government, bearing in mind that the first Member of the Board of Revenue is the first person whose name appears as having been present at the consultation, and I think you will allow that I have not proposed any thing very violently opposed to the spirit and meaning of the Resolution. In paragraph 1 we find it stated, that "the important question of the best means of maintaining an efficient village Police has been brought again under the consideration of the Governor General, from the circumstance of the revision of the settlement in some pergunnahs having taken place and been confirmed by Government, while either no provision or an inadequate one had been assigned, whether in land or money, for the Police servants of the different village communities. This omission it is now desirable to rectify, and the whole subject has been fully

Assignments of Jagheers to the village Police at the period of the revision of the Settlement under Regulation IX. of 1833.

discussed at conferences held in the presence of the Governor General, at which were assembled all the officers* employed now or heretofore in the Police and Revenue Departments immediately in attendance on his Lordship. It was stated that the omission, where it may have occurred in past settlements, can be supplied without inconvenience, and without any re-adjustment of the Government juma, and measures can at the same time be taken for the prevention of future mis-arrangements of the same kind." This is plain writing, and can hardly be misunderstood.

* Messrs. M. R. Bird, F. Currie, J. Davidson, R. N. C. Hamilton, J. R. Colvin, C. G. Mansel, and R. Alexander.

4.—Your objection to the "assessment being on land, and the tax on population," does not appear to me of much weight, and, like your other objections, is at variance with the Resolution of Government, which, in the 6th paragraph, says that "the number of watchmen must of course be proportioned to the size of the villages, the lines of trade and general communication, and the points of the road generally used as halting places by travellers. In the same way the regulations have from time immemorial left it at the discretion of the Magistrate, who is responsible for the peace and security of the district, to insist upon the villagers keeping watchmen in proportion to the number of the houses, for it is apparent that where there are many houses, there must be a large population and much life and property to protect; and it generally follows too that the increase of bad characters more than keeps pace with the increase of population; therefore it is that the law has wisely left it in the power of the Magistrate to regulate the Chowkeedaree police according to the number of houses. It does not follow that because the Magistrate has the power to keep up when necessary a strong Chowkeedaree force, he will always insist on the full complement being kept in villages containing good characters, or otherwise deserving of indulgence. On the contrary, no Magistrate would think of such a thing; and in my letter to you of the 10th ultimo, I expressly stated that the Magistrate would retain the power of returning or remitting such portion of the tax as he thought advisable to the well-behaved communities. The simple mode of rewarding good conduct, and discouraging bad, would be one of the safest and most powerful engines which could be placed in the hands of a Magistrate; and a steady, discriminating, and systematic use of it would soon work a great change in the inhabitants of this district, and would eventually eradicate the two-edged system of making every village liable for property lost within its own boundary. A village may be the most orderly possible, and highway-robbery may take place within its bounds, or its inhabitants may themselves be plundered, and another village may, as you say of Kusba Bowainna, not know what it is to have a robbery or theft take place, yet it may be the terror of its neighbours. Villagers, brought up and expert in theft, take care to make distant places the scenes of their depredations. They are not often foolish enough to rob one another. But in such villages a large Chowkeedaree force is more required than in any other, for it is necessary to have two distinct sets of watchmen; one on

the part of the villagers, who are answerable for their village; the other on the part of the Magistrate to watch the motions of the villagers, report when parties go abroad on suspicious excursions, and return with suspicious property, or in any other way give a clue to any crimes which they may have been engaged in. As to population tax pressing very heavily on particular villages, I think the question can be solved and set at rest in a very simple way. It is the practice in this, and I believe in other districts, for the greater part of the cultivators of two or more villages to reside in one village. This practice probably had its origin partly in the relationship which exists between the several villages, and partly in the disturbed state of the times, and was resorted to for the sake of the mutual protection afforded by large bodies living together. Whatever its origin, it still exists very extensively in this district, and will, in all probability, continue for many years. The cultivators, then, of two or three villages being collected with their property in one, it differs little to them whether they pay the chowkeedaree tax in one village, or in more, provided it amount to the same sum, particularly as they generally cultivate lands in more than one village. I will take the very village which you adduce as one on which the population tax would press lightly to elucidate what I mean. You say Mouzah Retola (Mouzah Retola, Pergunnah Bowanna, according to the Surveyor) has only 55 houses, (the Surveyor says 82,) and the tax you say will only amount to Rs. 84 per annum. A reference to the Surveyor's statistics of the village clears up the mystery. The cultivated land is stated to be 2,388 beegahs, fit for cultivation 1,414 beegahs, total 3,802 beegahs. It is probable that a great part of the land fit for cultivation has now been brought under the plough, but taking the cultivation at what it was in 1825, when it was surveyed, it is clear that the cattle, as per margin,* (extract from the statistics,) could never have sufficed for the culture of 2,388 beegahs, or 1,493 acres. The truth is, a large portion of the cattle with their owners are located in no less than seven of the neighbouring villages; viz. Nahurpore, Sahibabad, Siruspore, Pooth Kullan, Badlee, Shumuspoor, and Nughoolpoor, as shown by the Surveyor. It is but just, therefore, that all the people who reside in these seven villages should pay each his quota towards the peace and security of the respective villages in which their lives and property are protected, the more so as these villages are, under the local law to which you allude, answerable for property lost within their bounds. The instance of Jehanamah, which you bring forward so prominently, is no criterion of the manner in which the tax on population will press on the different villages, and cannot be allowed as an example. It is a suburb of the city of Dehlie, and has no zemindars, being the property of Government, by whom the grazing and other perquisites are let to a farmer. It can, with great advantage, be brought under the city Bukshee, who will realize the tax under Regulation XXII. of 1816 from the householders.

* Bullocks, ... 109
Cows, ... 150
Buffaloes, ... 56

5.—What you say about the provision made by you being similar to that which has been done in other pergunnahs of other districts may be very correct;

but it does not follow that the provision here, or elsewhere, is adequate to the purpose proposed, and in my opinion it is very far from being so; moreover, the Resolution of Government is evidently drawn up for the express purpose of causing the errors and omissions of the Settlement and Judicial Officers in this and other districts to be corrected, and we are bound to enter upon the task prescribed, however difficult it may be, and willingly, with a good grace. But any great difficulty in effecting what has been required, I am unable to discover. I will allow that the zemindars may at first be inclined to raise objections to this tax, especially if they see us wavering, or inclined to encourage them, for they are unfortunately averse to all improvement or change, and do not at first see the object of Government, and, whenever a payment of money is required, are but too much inclined to consider the demand as a cloak to an enhanced revenue. They cannot see that an appropriation, whether of land or money, from the assets of an estate towards the Chowkeedaree tax, is in reality a most liberal relinquishment on the part of Government of that which they might, as heretofore, bring into their own coffers. In my opinion there can be but one real difficulty in effecting our object. I allude to the possibility of your having over-assessed the district, and not left the proprietors in sufficiently easy circumstances to allow of their maintaining an efficient village Police, in which case the views of Government can only be carried out by your rectifying the error, and making the required provision come within the means of those who are to pay the tax.

6.—In conclusion, I beg the favor of an early reply to this communication, in order that I may be enabled to make the return which I have been called upon for by the Commissioner.

From J. H. TAYLER, Esq., *Assistant Commissioner, Revising Settlement, Dehlie, to* C. GRANT, Esq., *Magistrate of Dehlie; No.* 71 *of* 1840, *dated Dehlie, the* 22*nd April* 1840.

IN reply to your letter No. 99, dated the 18th instant, I have the honor to offer the following observations:—

The statements furnished by the Thannadars shew that there are 29,270 families in the khalsa mouzahs of the Dehlie district.

At the rate of one chowkeedar at Rs. 3 a month to every 30 families, and one bullahur at one rupee per mensem to every village, the annual expense will be Rs. 39,120.

The current year's juma of your district is, I think, Rs. 3,83,835.

The increase on that juma to be caused by introducing your system would thus be 9-13-0 per cent.

As your district has been assessed fairly, any additional demand would be unfair, and such an additional demand as the above, intolerable.

Your experience will probably have shewn that your district is not over-assessed. Over-assessment itself, however, were a light fault, compared with the

dereliction of duty which the Settlement Officer would commit whose assessment could bear such an addition as 9-13-0 per cent.

But even where over-assessment has not, and where under-assessment has, occurred, there may exist reasons of sufficient weight with some to refrain from disturbing engagements which have been concluded *bonâ fide*.

The public has all along been impressed with the belief that the principal aim of the revised Settlement is to ascertain with precision, and to fix for a series of years, a limit to the Government demand. It would be another violent shock to that belief, and but a poor exemplification of our consistency, to commence the fulfilment of our part of the compact by asking an advance of nearly 10 per cent. on what we have taken such infinite pains to pass off as a permanent limitation of our demand.

To effect what you wish, the only way seems to be to obtain the authority of Government to cause a reduction of the assessed jumma to the required extent, Rs. 39,120.

But there appears to be no necessity for such a sacrifice, in this Division in particular, where the chowkeedaree system is similar to what has been adopted elsewhere. The number of chowkeedars, and the mode of paying them which had prevailed, has been continued, I believe, in all those pergunnahs whose settlements have been revised.

From the Secretary to Government, North Western Provinces, to H. M. Elliot, Esq., *Secretary to the Sudder Board of Revenue, North Western Provinces, Allahabad; No.* 1305 *of* 1840, *dated Agra, the* 14*th September* 1840.

Revenue Department.

I am directed by the Hon'ble the Lieutenant Governor to acknowledge the receipt of your letter No. 322, dated 14th August last, regarding the Police arrangements made at the time of settlement.

2.—Under the explanation contained in paragraphs 2 and 5 of your letter, His Honor sees no reason to apprehend that the arrangements for the maintenance of the Police in Furruckabad are inadequate, and confirms the orders which have been passed in this respect.

3.—The general remarks contained in paragraphs 6 to 39 are such as entirely meet with His Honor's concurrence. The Board are requested to proceed accordingly to enforce the principles which they advocate.

APPENDIX E.

EXTRACT *(paragraphs 10 to 12) of a letter from the* COMMISSIONER OF THE ALLAHABAD DIVISION, *to the address of the* SECRETARY TO GOVERNMENT, *North Western Provinces, dated 12th November* 1842, *No.* 71.

Paragraph 10.—In his 11th paragraph, the Magistrate strongly advocates the principle of money payments, and in this I cordially concur. It is impossible for a man to discharge his Police duties efficiently, if his time is engrossed in cultivating his field, and in guarding the produce, to say nothing of unfavorable seasons. In seasons of drought and scarcity the chowkeedars, if made dependent upon their crops, must either starve or steal. During the famine of 1245 Fuslee the chowkeedars deserted their own villages, to steal what they could get in other quarters. These evils would be remedied by a fixed money provision; the village watch would thus be rendered more independent, their situations more desirable and better worth retaining, and the officer more efficient. The system has been introduced into Bundlecund, where, from the prevalence of bad and uncertain seasons, especially in the Northern Division, it will be hailed as a boon, and would be fully appreciated in other parts of the Division.

11.—It is calculated that the jagheers in Futtehpore yield to the chowkeedars no more than Rs. 20 a year; but if even Rs. 24 were assumed, the wages would be insufficient. Mr. Thornton proposes, and I think the suggestion a good one, that the whole of the jagheer lands should be restored to the zemindars, who would be required to pay an estimated rent of Rs. 24 per annum in addition to their present juma, and that to this sum eight annas each per mensem, or Rs. 6 per annum, should be given by Government, to make the balance of Rs. 30 per annum. The Magistrate believes that the change would prove generally acceptable to the people, while the services of a better class of men would be available.

12.—But I would not recommend, as suggested in the 18th paragraph of the Magistrate's letter, that payment should be left in the hands of the zemindars; the chowkeedars would be better satisfied, and would prove more faithful to the State, if paid by the State from the collections of the village.

EXTRACT *(paragraphs 20 to 24) of a letter from the* OFFICIATING MAGISTRATE OF FUTTEHPORE, *to the address of the* COMMISSIONER OF THE ALLAHABAD DIVISION, *dated 27th October* 1842, *No.* 23.

Paragraph 20.—It will be observed by the remarks upon the villages entered in the statement that eight, as noted in the margin, * have always supported the chowkeedaree establishment necessary for their protection by means of a house tax or assessment.

* No.	Village.
13	Dahowah.
36	Lahna Khera *alias* Surnie Khajoor.
78	Chuck Jaffer Ally Khan, with Kutra Jaffar Gunge.
42	Ackberpore, &c.
46	Amroles Khass.
59	Kishenpore.
108 and 109	Shoojaupore and Sheomuppore Khass.
134	Chuck Hussun Gunge.

This arrangement appears to have been introduced by the people themselves without the intervention of authority, and it has continued up to the present time without causing any discontent among those who have to pay the rate.

21.—The tax is indeed so light, and the expediency of levying it so obvious, whenever the number of houses from any cause is disproportionately large, as compared with the area of a village, that I believe the system to be generally in force in such cases throughout the Doab. A chowkeedar being able to watch at least 50 houses, a rate averaging one anna per month upon each house under his charge is more than sufficient for his remuneration.

22.—If these arrangements could now be in any way legalized and upheld, it would diminish by about 48 the number of additional men for whom I have above proposed, in the 19th paragraph, that a maintenance be now assigned, and would reduce the yearly outlay on this account to Rs. 6,510. The total addition which I have recommended to the chowkeedaree force provided for at settlement in the eight villages undermentioned is 54, but the proposed number is in two cases larger than that which the house assessment has hitherto supported, and it might create discontent if the amount hitherto levied in this manner were increased. The Government would therefore have to provide for a portion of the force in these cases.

23.—It will be seen also by the figures in the margin,* that unless the continuance of the house assessment be authorized in these villages, the expense incurred by the State for the protection of the inhabitants will be large beyond all proportion to the Revenue derived from them. In No. 36, for instance, 13 men have always been employed for the purpose of watching the 900 houses which the place contains. Two of these have already been provided for at settlement at the expense of the State. If the whole number are to be so supported henceforward, (which is the alternative, supposing the existing tax to be abandoned,) the yearly expense to Government will amount, at Rs. 30 per man, to Rs. 390, the juma of the mouzah being only Rs. 1,160. In No. 38 the yearly expense would be Rs. 210, thus almost absorbing the juma, which is only Rs. 231.

* No.	Amount of Juma.	Annual expense of proposed Chowkeedars.
13	4,312	270
36	1,160	390
38	231	210
42	1,953	300
46	2,212	240
89	1,691	180
108 and 109	1,057	300
134	2,037	270

24.—I observe, however, in the orders of Government of 16th December 1841, forwarded with your letter No. 31, dated the 31st of the same month, a great disinclination to extend the provisions of Regulation XXII. of 1816 to any place into which it has not yet been introduced. The extension of these provisions to mouzah Kudjooa (No. 36 above alluded to) has been specially refused in these orders. But the Government do not appear to have been made aware that the system which it was sought to establish in a legal way had really been long in force without any complaint on the part of those concerned.

From J. THORNTON, Esq., *Secretary to Government, North Western Provinces, to the* COMMISSIONER OF THE ALLAHABAD DIVISION; *No.* 1621 *of* 1811, *dated Agra, the* 19*th October* 1811.

Judicial Department.

IN continuation of my predecessor's letter to your address, dated 21th December 1812, on the subject of the village Police of zillah Futtehpore, I am directed to observe that as orders have now been passed on the settlement, the Lieutenant Governor proceeds to dispose of this question, which had been reserved for consideration.

2.—In connection with this subject, I am desired to forward for your information the accompanying extract (paragraphs 6—39) of a letter from the Sudder Board of Revenue, dated 14th August 1810. The Lieutenant Governor of the day, on 14th September 1810, expressed his full concurrence in these remarks, and they are entirely adopted by the present Lieutenant Governor.

3.—Generally speaking, it is not considered desirable to commute the service land, immemorially assigned to the village watchmen, for a money payment from the treasury. It is only necessary to provide that the service land and money dues be adequate, and that they be actually enjoyed by the watchmen.

4.—The village zemindars continue to be responsible for the Police within their estates, and the Lieutenant Governor is averse to a measure which, by placing the watch and ward in the hands of independent officers paid by the Government, ostensibly weakens the ability of the landed proprietors rightly to discharge themselves of this responsibility. The object of the Government should be to work through the village institutions, and not to set them aside, and by aiming at the centralization of all power *directly in the* hands of the executive, to lose all the co-operation which the people are naturally able and inclined to render.

5.—The proposition appears to rest on the fallacious expectation that it is possible to afford adequate protection to the inhabitants by a few chowkeedars, who would be in fact only ill-paid burkundazes, scattered all over the country. The security of the people will be more effectually consulted by their own efforts, exercised through their own village officers. The watchman should be the agent through whom the zemindar or village community provides for the public safety; not the officer of the Government to see that they perform their duty. The former character is better maintained by adherence to the former custom.

6.—You are requested to furnish the Magistrate with a copy of these instructions, and to direct his attention to the maintenance of the village watchmen in the enjoyment of the allowance assigned to them at the time of settlement, as laid down in paragraphs 7 and 8 of the Board's letter.

7.—But it appears from the letter of the late Officiating Magistrate, dated 27th October 1812, that the number of village chowkeedars is fewer

than it should be, and their remuneration inadequate. An allowance of one chowkeedar to 60 houses is not more than is necessary, and it would appear that at this rate about 265 more are required than the Settlement Officer allowed. The Lieutenant Governor authorizes the increase of the establishment to the amount, and requests that a provision for them in land, to the extent of about three acres for each man, be set apart. A reduction in the assessment will be made for the land thus taken on the principles laid down in the Circular Order, Sudder Board of Revenue, No. 4, Section 5.

8.—The Lieutenant Governor does not recognize the obligation of the Government to provide especially from the Land Revenue of the State for the maintenance of chowkeedars along the public roads. The Government are bound to provide for the protection of the agricultural population, from the contributions which that population afford to the State, but they are not similarly bound specially to provide from the same fund for the protection of travellers. The practice of maintaining road chowkeedars is of limited occurrence. It prevails only in some districts, and along a few of the roads in these districts. It seems to have arisen more from the caprice of the Local Magistrate, than from any innate and pressing necessity. It was not in itself a simple and easy measure which afforded a ready palliative to a pressing evil, but the root of the evil lay much deeper, and required more severe scrutiny, and more searching investigation; highway-robbery and deeds of open violence do not arise from the absence of a few ill-paid, disreputable chowkeedars, stationed at distant intervals along a highroad. They arise from a relaxation of the vigorous control over the community which a weak and inefficient Magistrate suffers to exist, and it may have existed so long that the most zealous efforts of a temporary incumbent of the office may be unable to provide an immediate remedy. The ordinary Police, foot and mounted, should be adequate to protect the public roads, especially when the zemindars are held strictly to the responsibilities for preserving the public peace which legally attach to them, and will be found stated in the enactments noted in the margin. The Magistrate who energetically exercises the powers entrusted to him by law, and uses his Police not only for the detection and punishment of the actual perpetrators of crime, but also for the enforcement of the legal penalties against those who conceal, countenance, abet, or shelter the criminals, will find his influence much greater and more effectual than it could be by the easy remedy of a few chowkeedars, extorted from the zemindars, which are accepted as compensation for all delinquencies, [illegible]red as an excuse for avoiding further and more troublesc

Section 3, Regulation XXXV. of 1803.
Section 9, Regulation IX. of 1804.
Section 19, Regulation XIV. of 1807.
Regulation VI. of 1810.
Section 10, Regulation I. of 1811.
Sections 4, 9, and 12, Regulation III. of 1812.
Section 2, Regulation VIII. of 1814.
Clause I., Section 14, and Clauses VI. and VII., Section 20, Regulation XX. of 1817.

See also the Circular Orders of the Nizamut Adawlut.

Circular Order 53, of 31st May 1809.
Ditto ditto 241, of 10th November 1820.

9.—This rigorous exaction of a recog[illegible]
ing to all landholders is quite consistent

demeanor towards them. No landholder should be harassed by vexatious and unnecessary summons on the occurrence of every petty offence. But they should all be warned of their duties, and whenever there is good reason to suspect either wilful neglect or criminal connivance, no pains should be spared to discover the truth, and punish the offender. In this, as in every other case of the exercise of a discretionary power, it is most necessary to preserve the medium between vexatious interference and heedless indifference.

APPENDIX F.

EXTRACT *from* SETTLEMENT REPORT *of the District of Agra by* MR. MANSEL, *dated 30th April* 1841.

31. *Police dues.*—A jagheer of land was at first assigned to the village Police in the pergunnahs of Ferozabad and Khundowlee; but in the remaining divisions a money provision was made, in accordance with the permission granted in the Minute of the Governor General, North Western Provinces, dated 10th January 1840, to the chowkeedars and bullahurs, as one or both of those servants were required in each estate. This mode of provision was approved of by the Magistrate; and lists of the number of chowkeedars and bullahurs required furnished for each pergunnah to the Settlement Office. The assignment of a money allowance does not agree so well with the filling up of the revenue forms as the grant of a jagheer; for the variation in the extent of the Police dues in different estates is not always proportioned to the difference of area or juma; so that the comparative range of assessment is disturbed by this new element of deduction from gross rent assets. This difficulty could, however, only be avoided by assessing Police dues in a pergunnah aggregate, and distributing them by an equal per-centage upon the rent assets of the different estates. Such a change, even if politic, was, however, too important for me to press forward during the currency of settlement duty; and, moreover, by noticing the Police dues, commonly in the detailed remarks of Form III. appended to each village, the variation in the range of assessment and average acre rate, if created by this difference of demand for Police dues, is at once shown; and the ordinary tests of comparison of the equality of assessment can be, to all substantial purposes, *mutatis mutandis*, applied. The charge is certainly a very considerable one; but the cost is not of necessity increased by the assignment being a fixed money payment to chowkeedars and bullahurs. The village Police have, in Agra, always been accustomed to receive a money allowance, varying from three rupees to two rupees per month, under arrangements made by the earlier Magistrates, with the consent of the zemindars. When the size of the district and its vicinity to foreign states, the sub-division of property, and the liability of the population to extreme distress from drought and famine, by reason of the soil being so dry, and water so low from the surface, are studiously taken into consideration, the necessity of a village Police of considerable strength will be at once

seen. The area of the whole district is indeed 1,861 square miles. The amount of the Police dues, in money and land, is given below.*

By a reference to former remarks, it will be seen that, on the whole, a large reduction of juma has been allowed to this zillah. The necessity of providing jagheers of land to the village Police was the main circumstance that induced me to frame my general calculations, so as to assess a juma that, with the Police dues, should be more or less equal to that hitherto paid by the zillah. Thus the net gain of the district from the settlement was, that the village communities received an improved village Police for the protection of their lives and properties, while the expense was shifted from themselves upon the State. In short, the zillah appeared to me with its old juma over-assessed, to the extent that Police dues had been paid before the settlement, to be paid after the settlement by the zemindars without deduction on that account.

32.—*Service lands to Police of Native Rule.* At a season of making permanent provision for the village Police of the country, it became of course incumbent on the Settlement Officer, in communication with the Magistrate, to dispose, finally, of such land as had, in this district, been assigned in support to parties, who, under the name of pyadah, had received appointments, the duty of which was the charge of the Municipal Police of the times. Three large grants of this kind have continued, since the Jat rule, unmolested, in this part of the country, to the present day. Two of them were in the country towns of Pinahut and Buttesur, in the Bah Pinahut pergunnah, and one in the village of Oogurpoorah, adjoining the town of Bah. Two other small service holdings of the same kind existed also in the same division. The extent of land thus held in jagheer amounted to 909 acres, and the number of the Police force was 111 Privates and one Jemadar. The average holding of each member of the service was about eight acres, and the income which

* *No. Jagheers in land.*
[illegible] ... 721 acres.
[illegible] ... 778 acres.

	† Chowkeedars.		Bullahers.		Total.
	No.	*Pay.*	*No.*	*Pay.*	*Pay.*
Furrah, ...	220	7,500	110	1,870	[illegible]
Huzoor Tehseel, ..	235	[illegible]	123	1,475	[illegible]
Iradutnuggur, ...	169	[illegible]	112	[illegible]	[illegible]
Futtehabad, ...	[illegible]	[illegible]	123	1,475	[illegible]
Bah Pinahut, ...	[illegible]	[illegible]	172	2,064	[illegible]
Futtehpore Sikree, ..	150	[illegible] 4	105	[illegible] 12	[illegible]
Total, ...	1,224	[illegible] 4	[illegible]	[illegible] 12	[illegible]

† The pay of the chowkeedars in Furrah was fixed at Rs. [illegible] per annum, and of the [illegible] at Rs. [illegible], previous to the [illegible] of the [illegible] [illegible], and [illegible] would [illegible] by the [illegible] of the arrangement.

they derived by cultivating their holdings with their own hands ranged from two to two and half rupees per mensem. Since the conquest, this force has ranked as part of the Police force of the country; and service, more or less substantial, has been extracted from it by the different Thanadars of Pinahut and Bah, in controlling the turbulent population of our provinces, and in checking the inroads of the predatory tribes lining the right bank of the Chumbul. Its use, however, was by no means equal to its cost. The situation was claimed as a right of inheritance, and the right then formed a subject of contention. The organization of the burkundauz force rendered it manifold more valuable than that of the Zemya chowkeedars; so that their estimation has gradually sunk very small in the eyes of successive Magistrates, and their abolition become a matter scarcely to be avoided. The chowkeedars themselves seemed all very ready to accede to any plan that might be devised, for reconciling their future subsistence and the interests of Government. The case was therefore, with their consent, disposed of under Clause VIII., Section 5, Regulation IX. of 1825; and the sanction of Government to the resumption is solicited. Each Zemya chowkeedar has been allowed to retain his service land at low revenue rates, about half the natural rent assets; and a reduced Police force of the same character as the rest of the new village Police has been created, for the protection of the towns, where the duty of the pyadah force lay. In the lieu of twenty-five men at Buttesur, ten have been appointed; of sixty-four at Pinahut, fifteen, and of twenty-one at Bah, besides a Jemadar, eight. The allowances of the chowkeedars newly appointed are included in the Police dues of Bah Pinahut, given in the previous paragraph. The number of new chowkeedars has been reduced to less than one-third of the old Zemya Pyadahs; and a further saving could not have been made with safety to the public peace; at any rate, not until any general revision and remodelling of the entire Police force, burkundaze and village, is made in a spirit of improvement, as well as on a mere consideration of relative charges.

APPENDIX G.

EXTRACT *from* SETTLEMENT REPORT *of the District of Humeerpore, by* MR. C. ALLEN, *dated the 28th of February* 1843.

69.—*Police.* The revision of the village Police has also tended to diminish the net revenue, for the number employed, and their remuneration, were each inadequately provided. I have bestowed much pains in fixing their number, as also with reference to their location when their services were more or less necessary for the protection of the people. They are now entirely paid in money, in preference to the usage formerly existing of partial payment in land, the evil of which was conclusively exemplified in the famine years, when many of these chowkeedars emigrated at the time when their assistance was most called for, as destitution naturally led to the increase of crime to a fearful extent.

This further charge, as it appeared to me, could not be made an additional burthen on the people, and thus it frequently happens that the net revenue is less than previously, though the amount levied from the zemindar is undiminished. In fact, the first point in my settlement was to establish the gross tax the zemindar should pay, and from this the Police expenses fixed by me in conjunction with the Magistrate were deducted, the remainder forming the Government juma. In the margin* the village Police expenses of each pergunnah, and their per-centage on the juma, are detailed. In Punwaree particularly the Police charges are very heavy, but I have already remarked that the villages of this pergunnah are much dispersed, and widely separated from each other and their Thannas, and this rendered a numerous Police indispensable.

*Pergunnahs.	Pay.	Per-centage.
Khirka, ...	1,128	4·07
Mhowda, ...	6,588	4·77
Punwaree, ...	12,396	6·76
Rooth, ...	9,672	5·29
Someirpore, ...	6,294	4·48
Total, ..	36,078	5·37

Extract *from* Settlement Report *of Pergunnahs Calpee, Humeerpore, Jelalpore, Khurela, and Koonch, by* Mr. W. Muir, *dated the* 15*th June* 1842.

Section III.—Police and Putwaree Establishments.

150.—The village Police has, in conjunction with the Magistrate, been carefully revised and settled. The previous mode of remuneration was irregular in the extreme. In pergunnah Koonch support was afforded almost solely by an allotment of land; in Jelalpore and Khurela chiefly by money payments; and in Calpee and Humeerpore partly by the one, and partly by the other. In the subjoined statement are detailed the expenses of the zemindars under the old system; the land is valued at its supposed rent, estimated by the zemindars themselves, and the return may be relied on as in the main correct :—

Village Police formerly paid indifferently in land and money, now solely in the latter.

Pergunnahs.	Pay of Village Police.		
	In Land.	*In Money.*	*Total.*
Calpee, ...	1,302	1,899	3,201
Humeerpore, ...	612	1,121	1,733
Jelalpore and Khurela, ...	398	5,691	6,089
Koonch, ...	5,672	200	5,872
Total, ...	7,984	8,911	16,895

The advantages of a money over a land allowance, considerable every where, are in Bundelkund of extraordinary importance; for there a year of

not been interfered with. Arrangements have been made for defining and fixing the boundaries of each jagheer, the whole when completed to form a book of reference signed by the zemindars, Putwarees, and watchmen of each village, and finally by the Tehseeldars and Canoongoes. The great superiority of this system of remuneration over that of monied stipends seems scarcely to admit of a question. *First.*—It sets at rest for ever the constant disputes arising about the payment of the monthly wages, and renders unnecessary the vexatious interference of the Police for levying from the zemindars the salaries fixed for their support, usually accompanied with extortion from one party or the other. *Secondly.*—It affords complete security to the village Police for receiving a fair compensation for their vigilance, thereby holding out the best inducement to good behaviour. *Thirdly.*—It creates a permanent attachment on the part of the village Police to the interests and welfare of the community. *Fourthly.*—While it adds considerably to the respectability of the watchmen, it releases them from too great a dependance on the caprice and will of the zemindar, who is often found abusing his influence and authority over them.

APPENDIX J.

EXTRACT *from* SETTLEMENT REPORT *of Pergunnah Dhera Dhoon, paragraphs* 120 *to* 123, *page* 56, *dated the* 12*th June* 1850.

Village chowkeedaree establishment.

120.—There has hitherto been no village chowkeedaree establishment in existence in the Dhoon, although the moquddums were, under the terms of their engagement with Government, responsible for the Police as well as the revenue of the district. The want of an efficient village Police has for some time past been much felt, and will be so more and more every year as the population increases.

121.—It was my desire to devise a system of village Police which should in some measure supply this want. That there can be anything like an efficient establishment of this sort in so thinly populated a country as the Dhoon, is out of the question. The subject has presented many difficulties, which I have not yet been able altogether to meet and overcome. The village proprietors are in general too poor, and the population too scanty, to admit of a chowkeedar to each village. It appeared to me, therefore, when I first took up the subject with the view of forming a chowkeedaree establishment, that what I believe when practicable to be by far the best system, that of assigning a small jagheer to each chowkeedar for his support, would not be feasible in this district, as it would be necessary, from the limited number of chowkeedars which the chowkeedaree funds would admit of, to assign several villages to each; under which circumstances the chowkeedar, it was to be feared, would naturally be inclined to consider himself the servant of the village in which his land was situated, and to neglect the other

villages, even if the proprietors of those villages should remunerate him in some other manner.

122.—I therefore gave the preference, and, as it appeared at the time, with the concurrence of the zemindars, to the plan of assessing a chowkeedaree fee in money, the amount to bear a fixed proportion to the net juma, and to be collected like the one per cent. road fund along with the instalments of revenue, and to be formed into a fund for the payment of a body of village Police. The scale of assessment I fixed at Rs. 3-2-0 per cent. on the net juma of each village. This I calculated, assuming the net juma of the district at Rs. 20,000, would yield Rs. 625 per annum, which, at the rate of Rs. 2-8-0 per month to each man, would be sufficient to provide twenty chowkeedars for the whole district.

Remuneration of chowkeedars.

123.—But I found, when I came to carry this plan into effect, that the assessment was felt to be, as in truth it was, very heavy, without promising any benefits at all commensurate with the expense, for the number of chowkeedars which the fund would provide would be altogether insufficient for the efficient watch of the number of villages placed under the protection of each chowkeedar, amounting on an average to eight each. I therefore abandoned this project, and am now engaged in devising a system, similar to that generally prevailing in other parts of the country. I shall endeavour to arrange that, where possible, the chowkeedars shall have small jagheers of land assigned them, and where this is not possible, that they shall be paid in certain fixed quantities of grain. All the large and more populous villages will be required to maintain one chowkeedar each, assigning him a small portion of land, with payment besides in grain if necessary. Villages inferior in size and population will have to maintain one chowkeedar to two or three contiguous villages, each paying him certain fees in grain in proportion to its population, while remote and isolated villages, too poor to maintain a chowkeedar, shall not be compelled to support one, in which case they will be no worse off than they were before. I feel no doubt of being able to carry this plan into effect. My measures, however, are not yet matured. I am therefore not prepared at present to submit the village Police statement required by the Settlement Directions, which, however, I shall not omit to do so hereafter, as soon as my arrangements have been completed.

APPENDIX K.

EXTRACT *from* SETTLEMENT REPORT *of the District of Paneeput, Zillah Dehlie, by* MR. G. F. EDMONSTONE, *dated* 31*st October* 1842.

CHOWKEEDARS.

44.—It became a part of my duty, in pursuance of the Resolution of the Governor General dated 10th January 1840, to provide for the maintenance of a village Police, the strength of which should be determined by the

Magistrate, and communicated to me; b[illegible]at having personally visited every vil-
lage, and being perhaps better acquaint[illegible]d with the numbers and character of
the population resident in each than that [illegible]functionary, I was requested by him to
fix the number of chowkeedars who shou[illegible]d in future be employed, and, in com-
munication with the Police Officers, I acc[illegible]ordingly did so. Except in villages
consisting of less than ten houses, provisi[illegible]on has been made for the wages of a
chowkeedar in all, and with few exception[illegible], which will be found explained in the
remarks appended to the Police Statemen[illegible], the amount of those wages has been
fixed at Rs. 3 per mensem, and that of t[illegible]he bullahurs at one rupee, according
to the scale prescribed in the Resolution [illegible]cited. A remuneration in money for
the services of these people is infinitely p[illegible]referable, for various reasons, to an
assignment of land, for the sub-division [illegible]of the cultivated area in this district
would interfere with such an appropriatio[illegible], if it did not render it impracticable;
and people who have been occupied all da[illegible]y in the improvement of their fields,
or protection of their crops, cannot be su[illegible]pposed capable of much vigilance or
exertion at night. Many, moreover, are n[illegible]ot of agricultural habits; few are resi-
dents of those villages in which they serv[illegible], and a grant of land, however fertile,
to such, would be an incumbrance rather t[illegible]han a boon; in no instance, therefore,
has land been set aside as a provision for [illegible]the village Police.

45.—The sum of Police charges h[illegible]as been entered in the durkhast as a
separate item, and, being realized by an [illegible]qual assessment on each tenement in
the village, will be paid half-yearly, simulta[illegible]neously with the last rubbee and khur-
reef kists, into the Tehseeldaree. The [illegible]Collector will remit the amount at
similar intervals to the Magistrate, who [illegible]will devise his own system of distribu-
tion. Though not pressing heavily, excep[illegible]t in the smallest villages, this imposi-
tion has been strongly and universally ob[illegible]jected to,—a fact which can be ascrib-
ed only to the horror of innovation wh[illegible]ich is characteristic of a native, or
accounted for on the supposition that hitl[illegible]herto the chowkeedars have been con-
strained to be satisfied with a portion on[illegible]y of their dues; and, strange to say,
when a considerable augmentation of G[illegible]overnment revenue has been assented
to without a murmur, the addition of a [illegible]single chowkeedar has been received
with anger and vociferation.

69.—Similar care has been observ[illegible]ed in the compilation of the paper of
liabilities and administration, and the [illegible]same definite arrangement of Police
charges and other extra cesses has been [illegible]effected as in Paneeput Bangur,* and
I have nothing to add on this head to w[illegible]hat I have already recorded in a fore-
going part of this report.

EXTRACT *from* SETTLEMENT REPORT *of Pergunnah Rohtuck Beree, Zillah Dehlie, by* MR. M. R. GUBBINS, *(no date.)*

CHOWKEEDAREE.

49.—The system of chowkeedaree prevailing in the pergunnah is that termed Osra or Theekur, where each man takes his turn. The able-bodied men of the village are enrolled in the Putwaree's book, and their names written on small potsherds called Theekur, (hence the name.) These are thrown together into a large pot, kept in the village hall or chopal, with a second empty pot by it. Every day it is the Putwaree's duty to visit the chopal, with the Dhanook, and draw at random from the filled pot the required number of names, which he inscribes in his book. The Dhanook warns them whose names have been drawn for the night duty. The potsherds so drawn are thrown into the empty jar, and the process is repeated daily till the first jar is exhausted, when it is re-placed by the full pot, and the system re-commences. The watch is generally relieved after midnight; the duty well performed, and without expense to the village, there being under this system many more watchmen out by night than the village could afford to pay. Where found necessary, one or two chowkeedars, appointed by the Magistrate, on a salary of Rs. 3 a month, are superadded.

EXTRACT *from* SETTLEMENT REPORT *of Pergunnah Rohtuck, Zillah Dehlie, by* MR. M. R. GUBBINS, *dated 29th October* 1839.

CHOWKEEDARS.

47.—The remarks on the chowkeedaree system given in the 49th paragraph of my Report on Rohtuck Beree are also applicable to this Pergunnah.

APPENDIX L.

EXTRACT (*part of paragraph* 55) *of a letter from the* COLLECTOR OF ALLAHABAD, *to the address of the* COMMISSIONER OF ALLAHABAD, *dated 1st October* 1839, *No.* 43.

55.—The village Police has been amply provided for, and placed on a much better footing than they have hitherto been; five pucka beegahs is what has been allowed to each watchman throughout the district, except in the vicinity of the city, where three beegahs only have been allowed. Mr. Saunders preferred giving a salary of Rs. 2-8-0 per mensem throughout his large estate in lieu of land, which was an excellent arrangement; and I only wish other landlords could have been induced to follow his e

not otherwise. The respect borne by the chowkeedar to the zemindars is by no means impaired. Living as I do four months alone among the people in the villages, I am particularly struck with the innate respect and submission of the lower castes towards the Rajpoot Brahmins or Mahomedan land-owners. The chowkeedars of this district are all of a caste called "Arak;" they are "Khubur Russáns" as well as "Chowkeedars," that is to say, they are responsible for reporting events to this Thanna, as well as for watch and ward of their villages. No zemindar has complained to me of want of respect and subordination.

4.—At the same time their regular pay keeps them thoroughly in hand. Twenty-four hours' notice will gather the whole body at the Thanna. Complaints of absence without leave are very rare, as the old and infirm are weeded out at the Magistrate's annual inspection. They are an able-bodied, active set of men, ready to turn out in a village at the first summons, well acquainted with the village boundaries and the inhabitants, and as efficient a village Police as can be expected in the state of civilization of the country.